Decision **PROPOSED DECISION OF ALJ ROSCOW** (Mailed 10/15/2013)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U338E) for a Commission Finding that its Procurement-Related and Other Operations for the Record Period January 1 Through December 31, 2010 Complied with its Adopted Procurement Plan; for Verification of its Entries in the Energy Resource Recovery Account and Other Regulatory Accounts; and for Recovery of $25.613 Million Recorded in Three Memorandum Accounts.	Application 11-04-001 (Filed April 1, 2011)

(See Appendix for a List of Appearances)

DECISION ON SOUTHERN CALIFORNIA EDISON COMPANY'S 2010 ENERGY RESOURCE RECOVERY ACCOUNT COMPLIANCE AND REASONABLENESS REVIEW

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DECISION ON SOUTHERN CALIFORNIA EDISON COMPANY'S 2010 ENERGY RESOURCE RECOVERY ACCOUNT COMPLIANCE AND REASONABLENESS REVIEW

1. Summary

This decision addresses compliance, verification and reasonableness issues related to Southern California Edison Company's (SCE or Edison) Energy Resource Recovery Account (ERRA) for the Record Period January 1 through December 31, 2010. This decision finds that SCE's utility retained generation fuel procurement, administration of power purchase agreements, and—in the absence of any showing to the contrary—least-cost dispatch power activities for the period beginning January 1, 2010 and ending December 31, 2010 complied with SCE's long-term procurement plan. We also find SCE's procurement-related revenue and expenses recorded during the Record Period in its ERRA balancing account to be reasonable and prudent. SCE is authorized to recover in rates the undercollected balances in the Litigation Costs Tracking Account and the Project Development Division Memorandum Account. The Commission's Energy Division is directed to facilitate a workshop where SCE and other interested parties shall develop proposed criteria that should be used to determine what constitutes least-cost dispatch compliance, and the resulting methodology SCE should follow to assemble a showing to meet its burden to prove such compliance for use during the 2014 Record Period and subsequent inclusion in SCE's ERRA compliance application in 2015. This proceeding shall remain open to consider SCE's report on that workshop.

2. Procedural History

Public Utilities (Pub. Util.) Code Section (§) 454.5(d)(2) provided for a procurement plan that would accomplish, among others, the following objective:

> Eliminate the need for after-the-fact reasonableness reviews of an electrical corporation's actions in compliance with an approved procurement plan, including resulting electricity procurement contracts, practices, and related expenses. However, the commission may establish a regulatory process to verify and ensure that each contract was administered in accordance with the terms of the contract, and contract disputes that may arise are reasonably resolved.

In Decision (D.) 02-10-062, the Commission implemented Section 454.5 (d) by establishing Energy Resource Recovery Account (ERRA) balancing accounts for SCE and other utilities, requiring them to track fuel and purchased power revenues against actual recorded costs and to establish an annual ERRA compliance review for the previous year and an annual ERRA fuel and purchased power revenue requirement for the following year. The most recent Commission decision on an SCE ERRA compliance application was D.11-10-002, for the 2009 Record Period.

On April 1, 2011, SCE filed Application (A.) 11-04-001 "*for a Commission Finding that its Procurement-Related and Other Operations for the Record Period January 1 Through December 31, 2010 Complied with its Adopted Procurement Plan; for Verification of its Entries in the Energy Resource Recovery Account and Other Regulatory Accounts; and for Recovery of $25.613 Million Recorded in Three Memorandum Accounts.*" SCE served prepared testimony with its application.

A prehearing conference was held on June 17, 2011. The assigned Commissioner's Ruling and Scoping Memo (Scoping Memo) was issued on August 17, 2011. The Scoping Memo identified the issues listed below as appropriate for this proceeding:

First, SCE's requests that the Commission find that during the Record Period:

(1) its fuel and purchased power expenses complied with SCE's Commission-approved procurement plan and were recorded accurately;

(2) its contract administration, management of utility-retained generation (URG), dispatch of generation resources, and related spot market transactions complied with Standard of Conduct Four (SOC 4) in SCE's procurement plan; and

(3) all other SCE activities subject to Commission review in this ERRA Review proceeding complied with applicable Commission Decisions and Resolutions.

Second, the list of anticipated issues that Office of Ratepayer Advocates (ORA)[1] included in its protest was also included within the scope of this proceeding:

- whether SCE administers and manages its own generation facilities prudently (SOC 4);
- whether SCE administered and managed its Qualifying Facility (QF) and non-QF contracts in accordance with the contract provisions and otherwise followed Commission guidelines relating to those contracts (SOC 4);

[1] "The Division of Ratepayer Advocates was renamed the Office of Ratepayer Advocates effective September 26, 2013, pursuant to Senate Bill No. 96 (Budget Act of 2013: public resources), which was approved by the Governor on September 26, 2013."

- whether SCE achieved Least-Cost Dispatch of its energy resources (SOC 4);
- whether the entries in the ERRA are reasonable;
- whether the entries in the Litigation Cost Tracking Account (LCTA) and Energy Settlements Memorandum Account (ESMA) are reasonable and whether SCE has met its burden of proof regarding its claim for cost recovery/refund associated with this account;
- whether the entries in the Project Development Division Memorandum Account (PDDMA) are reasonable and whether SCE has met its burden of proof regarding its claim for cost recovery associated with these accounts; and
- whether the entries in the "other regulatory accounts" listed by SCE were appropriate, correctly stated, and in compliance with relevant Commission Decisions and Resolutions.

SCE's Application in this proceeding originally included a request for approval to recover $17.146 million (including franchise fees and uncollectibles) associated with undercollections in the Market Redesign and Technology Upgrade Memorandum Account (MRTUMA). On May 18, 2011, ORA filed a "Motion to Bifurcate the MRTU Implementation Cost Recovery Portions of Energy Resource Recovery Account (ERRA) Compliance Proceedings and Consolidate Those Portions into a Single and Separate Proceeding." On June 23, 2011, a joint Administrative Law Judge (ALJ) ruling addressed ORA's Motion, denying ORA's motion to bifurcate the issue of Market Redesign and Technology Upgrade (MRTU) from Application (A.) 10-02-012, A.10-04-002, and A.10-06-001, while, for A.11-02-011, A.11-04-001, and A.11-06-003, the Ruling granted ORA's Motion, stating, "as these proceedings are in their early stages, there is an opportunity to consider MRTU issues as a whole without disruption to the overall ERRA proceedings."

On August 12, 2011, the ALJ in the 2011 proceedings issued a Ruling providing further detail on consolidated review of MRTU costs. The ruling ordered Pacific Gas and Electric Company (PG&E), SCE, and San Diego Gas & Electric Company (SDG&E) to jointly prepare, file and serve a joint Application that includes a report on several topics, including SCE's request for approval to recover $17.146 million (including franchise fees and uncollectibles) associated with undercollections in MRTUMA. Therefore, SCE's request for approval to recover these costs is no longer within the scope of the instant Application.

ORA served its testimony on September 29, 2011. SCE served its rebuttal testimony on November 15, 2011. Evidentiary hearings took place on January 18, 2012. SCE, ORA, and PG&E filed opening briefs on February 1, 2012, as well as reply briefs on February 15, 2012.

SCE provided a public version of the two volumes of its prepared testimony (Exhibits SCE-1 and SCE-2) and confidential (unredacted) versions (Exhibits SCE-1-C and SCE-2-C) submitted under Pub. Util. Code §§ 454.5(g) and 583. The Appendices to Exhibits SCE-1 and SCE-2 are contained in Exhibit SCE-3 as well as a confidential version in Exhibit SCE-3-C. ORA also provided a public (redacted) version of its prepared testimony (Exhibit DRA-1) and a confidential (unredacted) version (Exhibit DRA-1-C). The public and confidential versions of SCE's Rebuttal Testimony are Exhibits SCE-6 and SCE-6-C, respectively. The public and confidential versions of SCE's Workpapers are Exhibits SCE-7 and SCE-7-C, respectively. SCE provided a late-filed exhibit, identified during hearings as Exhibit SCE-8-C and entitled "2010 Costs Attributable to Natural Gas Recorded vs. Forecast" on January 31, 2012. On the same date, SCE also provided a late-filed Exhibit SCE-9-C, entitled "Mountainview Availability Incentive Workpaper." Exhibits SCE-1-C, SCE-2-C, SCE-3-C, SCE-6-C, SCE-7-C,

SCE-8-C, and SCE-9-C, as well as Exhibit DRA-1-C, the confidential exhibits, shall be filed under seal and remain sealed for a period of three years from the effective date of this decision.

On February 1, 2012, SCE filed a motion to file the confidential version of its opening brief under seal, and on February 15, 2012, SCE field a motion to file the confidential version of its reply brief under seal. Both motions are granted. The confidential versions of SCE's opening and reply briefs shall be filed under seal and remain sealed for a period of three years from the effective date of this decision.

On April 30, 2012, in response to a request from the assigned ALJ, SCE provided a paper copy and a Compact Disc (CD) containing SCE's Master Data Request responses as well as responses to certain additional ORA data requests. Some of the material provided by SCE is confidential. SCE's response is marked as Exhibit SCE-10-C and is received into evidence.

On April 16, 2013, the assigned ALJ issued a Ruling Setting Aside Submission and Requesting Additional Information. The ruling sought the exact dollar amount that is equal to two times SCE's administrative expenses for all procurement functions in 2010. SCE provided this information on May 15, 2013. On June 14, 2013, ORA filed a "Motion to Strike Additional Evidence Submitted by Southern California Edison Company in its Response to ALJ Ruling Amending Scope, Setting Aside Submission and Requesting Additional Information." SCE responded to ORA's motion on July 1, 2013 and filed a corrected response on July 2, 2013. ORA, with the permission of the assigned ALJ, replied to SCE on July 11, 2013.

SCE's May 15, 2013 response to the ALJ's request for "the exact dollar amount that is equal to two times SCE's administrative expenses for all procurement functions in 2010" consisted of "supplemental testimony" organized into two sections, Section I and Section II. Section I provided the information requested by the ALJ, while Section II consisted of material unrelated to the ALJ's request. As discussed later in this decision, ORA's motion to strike Section II of SCE's response, as well as the associated attachments, is granted; only Section I of SCE's response is marked as Exhibit SCE-11 and is received into evidence.

This proceeding was submitted for a decision by the Commission as of July 11, 2013, the date of ORA's reply to SCE's response to ORA's motion to strike additional evidence.

3. Positions of the Parties

As a threshold matter, SCE and ORA devoted considerable space and effort in their briefs to arguments regarding applicable legal standards in this proceeding. As this is the ninth proceeding in which we review SCE's ERRA entries, this effort was misplaced; our standard of review has not changed since we implemented the ERRA framework, nor did the assigned Commissioner's Scoping Memo indicate any intent to review this matter in this proceeding. To reiterate what both SCE and ORA should know by now, SCE, as the applicant, has the burden of affirmatively establishing the reasonableness of all aspects of its request and proving that it is entitled to the Commission's actions and relief in rates that it is requesting. As with most utility related matters, the standard of proof that the applicant must meet is that of a preponderance of evidence. It is with these principles in mind that we review the various aspects of SCE's request.

3.1. SCE's Application and Testimony

Edison states that its application sets forth SCE's procurement-related operations for January 1 through December 31, 2010 (Record Period). SCE requests that Commission find that during the Record Period:

(1) its fuel and purchased power expenses complied with SCE's Commission-approved procurement plan and were recorded accurately;

(2) its contract administration, management of URG, dispatch of generation resources, and related spot market transactions complied with SOC 4 in SCE's procurement plan; and

(3) all other SCE activities subject to Commission review in this ERRA Review proceeding complied with applicable Commission decisions and resolutions.[2]

3.2. ORA

The scope of ORA's review in this proceeding concentrated on least-cost dispatch, URG operations and fuel expenses, the administration of Qualifying Facilities (QF) contracts and non-QF contracts, various Non-ERRA/MRTU Balancing/Memorandum Accounts and an audit of the various Balancing/Memorandum Account entries, including the Mohave Balancing Account (MBA).

ORA recommends a least-cost dispatch disallowance of $12.19 million in total for the Record Period.

[2] SCE Application at 1-2.

ORA does not recommend any specific disallowance against fuel cost recovery for individual outages, specifically, or for fuel procurement, generally, but does make recommendations for future internal audits and compliance reporting.

ORA does not object to SCE's administration and management of its QF and non-QF contracts for the Record Period.

ORA does not object to SCE's stated and recorded entries into the eleven Balancing/Memorandum Accounts listed in Chapter 6 of its testimony. DRA recommends that the $8.17 million SCE is seeking authority to recover from ratepayers recorded in the LCTA and PDDMA is reasonable except for the overcharge amount of $134,875 incorrectly recorded in PDDMA. Therefore, ORA recommends disallowing the overcharge amount and further recommends that SCE highlight the reversal of the overcharge amount to the appropriate Balancing/Memorandum Accounts in a future ERRA Compliance filing.

Regarding the MBA, ORA recommends that capital additions (currently not included in rate base) and the unamortized plant balance be written-off effective January 1, 2007 for ratemaking purposes and that any over-collected funds per the MBA be applied to the unamortized plant balance and capital additions.

4. Discussion

In the following sections, we address the requests made in SCE's application and testimony as well as the analysis and recommendations presented by ORA.

4.1. Least-Cost Dispatch

4.1.1. SCE's Testimony

In its application, SCE notes that the Commission requires SCE to demonstrate that least-cost dispatch operations and related spot market transactions during the Record Period complied with SOC 4 in its Commission-approved procurement plan. In Chapter II of Exhibit SCE-1, SCE discusses its compliance with least-cost dispatch principles and requirements as specified by applicable Commission orders. SCE states that during the Record Period, SCE consistently followed prudent procurement processes and practices in order to satisfy SOC 4 and concludes that, "accordingly, the Commission should find that all LCD-related activities SCE performed during the Record Period were in compliance."[3]

The 2010 record period marked the first full year since the California Independent System Operator (CAISO) implemented its "Market Redesign and Technology Upgrade" (MRTU) on April 1, 2009. As SCE explains the change, the CAISO's MRTU implementation changed the LCD landscape in two important respects: (1) it shifted more responsibility for making economic dispatch decisions to the CAISO, and (2) it reduced the need for SCE to manage a large share of its near term CAISO electrical energy positions via over-the-counter (OTC) trading activity.[4]

SCE's testimony summarizes the Commission's least-cost dispatch standard, and describes SCE's approach to compliance with this standard.

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[3] Exhibit SCE-1 at 29.

[4] *Id*. at 3.

SCE believes that compliance with the LCD standard set forth in SOC 4 is based upon the following objectives:

(1) when scheduling, or submitting bids for, resources with the CAISO, the utility does so in a manner that gives the CAISO the opportunity to dispatch them in the most cost effective manner;

(2) the utility purchases power when it is cheaper to do so instead of generating that power from its supply portfolio; and

(3) the utility sells surplus power that is economic to generate in a manner that minimizes ratepayer costs.

For the first objective, it should be understood that Resource Adequacy (RA) resources must be scheduled and/or bid to the market in order for SCE to comply with the Commission's reliability requirements. For discretionary bidding decisions, SCE employed a specific strategy (discussed in SCE's testimony) to address the cost minimization objective set forth in SOC 4. This bidding strategy was implemented through the actions of personnel in SCE's Energy Supply and Management (ES&M) Department.[5]

SCE asserts that its testimony explains how its procurement processes and activities satisfied these LCD compliance requirements. However, SCE also acknowledges that neither its testimony nor its workpapers includes a showing that SCE achieved least-cost dispatch during the Record Period:

> During the Record Period, daily and hourly LCD-related decisions were made based on then-current market and resource conditions. During a typical operating day, ES&M personnel make a myriad of dispatch-related decisions. **As a**

[5] *Id*. at 5.

> **result, it is not practical to document in this testimony all of the decisions made during the Record Period in order to demonstrate SCE's adherence to least-cost dispatch principles**.
>
> SCE's workpapers fully document all **key** LCD-related decisions, as well as spot market transactions SCE made during the Record Period. SCE **believes** that a close examination of any particular decision or energy transaction made during the Record Period **will confirm** that SCE has followed SOC 4 and its least-cost dispatch protocols.[6]

4.1.2. ORA

In its September 29, 2011 Report on SCE's Application, ORA states that it has reviewed and analyzed SCE's 2010 least-cost dispatch testimony, responses to data requests, and meet and confer notes. ORA evaluated this information under the Commission's definition of "least-cost" dispatch and the standards adopted in D.02-10-062 and D.02-12-074. ORA recommends a least-cost dispatch disallowance of $12.19 million in total for the Record Period. According to ORA, SCE's inefficient dispatch of its utility-owned Mountainview Generating Station (Mountainview) during the Record Period, specifically its revenue-based bidding versus self-scheduling or cost-based bidding resulted in SCE not achieving least-cost dispatch.

ORA requests that the Commission adopt the following recommendations:

1. $10.2 million disallowance for SCE's inefficient market-revenue based versus cost-based dispatch of its utility-owned Mountainview;
2. $1.2 million disallowance for 2010 Mountainview Incentive Payments; and

[6] *Id*. at 11, emphasis added.

3. $789,000 disallowance for 2010 Mountainview Emission Credits.

In addition to its substantive analysis of SCE's least-cost dispatch activities during the Record Period, ORA also argues that SCE's showing did not meet its initial burden of proof to provide evidence that it dispatched its energy in a least-cost manner pursuant to the SOC 4 mandate.[7]

4.1.3. SCE's Response to ORA

SCE asserts that its 2010 least-cost activity during the 2010 Record Period fully complied with Commission mandates. According to SCE, ORA's recommended disallowance for 2010 "is based on LCD rules that were not in place in 2010 (and are not in place now)."[8]

With specific regard ORA's recommended $10.2 million disallowance due to SCE's dispatch of Mountainview, SCE states:

> SCE operated Mountainview efficiently and in accordance with the Commission's LCD Standard of Conduct Four (SOC 4) during the Record Period. SCE used a daily evaluation of the facility's operating costs to determine the appropriate combination of cost-based bids and/or self-schedules with the CAISO. DRA's claim that Mountainview was "underutilized" is unsupported and based on the irrational theory that SCE should blindly and uneconomically engage in "more" self-scheduling of its URG facilities in direct contravention of SOC 4.[9]

[7] ORA Reply Brief at 4.

[8] SCE Opening Brief at 2.

[9] Exhibit SCE-6 at 2.

4.1.4. Discussion

We address ORA's recommended $10.2 million disallowance here, while ORA's recommended disallowances regarding 2010 Mountainview Incentive Payments and 2010 Mountainview Emission Credits are addressed below in our discussion of SCE's showing on Gas-Fueled Generation.

The question of whether SCE dispatched its resources in a least-cost manner in compliance with our SOC 4 is not a trivial matter. In 2010, SCE collected approximately $3.2 billion in revenues from its bundled service customers in payment for power procured on their behalf.[10] This Commission, as well as ORA, has every reason to look closely at SCE's actions because SCE's effort to "get it right," even if only slightly unsuccessful, could increase customer costs by millions of dollars. Therefore, when SCE, in its application, asks the Commission to make findings that SCE complied with its Commission-approved procurement plan, and that it complied with SOC 4, SCE should expect that we will closely review that request.

As we explain in detail below, we have examined SCE's showing and considered DRA's analysis and its recommendations for a disallowance. While we commend DRA for its effort, we are not convinced that its analysis is accurate and therefore cannot accept its recommendations. However, ORA's showing has caused us to look closely at SCE's showing, and we find many aspects of that showing to be below our expectations, as we described those expectations in prior decisions. Nevertheless, we cannot find—based on the history of prior ERRA proceedings as well as the record in this proceeding—that SCE's actions

[10] Reporter's Transcript (RT) at 114.

during the 2010 Record Period merit any penalty or disallowance. In short, SCE followed past procedures that, however inadequate they may appear upon close review, were developed in concerns with ORA and produced results and compliance showings that were subsequently accepted by this Commission when it approved SCE's applications in prior ERRA compliance reviews. ORA's efforts regarding the 2010 Record Period led to extensive litigation on the question of least-cost dispatch that exposed the incomplete nature of SCE's showing, but that showing was assembled by SCE in the context of prior Commission decisions addressing prior Record Periods, which approved SCE's showing in every instance. Now, as a result of the more extensive testimony in this proceeding, we can clearly see the inadequacies in the approach taken by SCE to demonstrate compliance with our least-cost dispatch standard. Therefore, we take steps in this decision to ameliorate these shortcomings and provide specific direction to SCE to improve its showings in the future.

To illustrate our concerns, we begin with a review of the ERRA compliance process. In adopting the regulatory framework under which PG&E, SCE, and SDG&E would resume full procurement responsibilities on January 1, 2003, D.02-10-062 ordered that the utilities comply with minimum standards of conduct, including SOC 4, which states:

> The utilities shall prudently administer all contracts and generation resources and dispatch the energy in a least-cost manner. Our definitions of prudent contract administration and least cost dispatch are the same as our existing standard.[11]

[11] D.02-10-062, Conclusion of Law 11.

In elaborating on SOC 4, we stated that:

> Prudent contract administration includes administration of all contracts within the terms and conditions of those contracts, to include dispatching dispatchable contracts when it is most economical to do so. In administering contracts, the utilities have the responsibility to dispose of economic long power and to purchase economic short power in a manner that minimizes ratepayer costs.
>
> Least-cost dispatch refers to a situation in which the most cost-effective mix of total resources is used, thereby minimizing the cost of delivering electric services….The utility bears the burden of proving compliance with the standard set forth in its plan.[12]

Once we established and clarified SOC 4 in D.02-10-062 and D.02-12-074, we implemented the ERRA compliance review process in a series of decisions addressing applications filed by each utility. Our decision on SCE's first compliance review application, D.05-01-054 in A.03-10-022, provided extensive guidance to SCE and other parties:[13]

> Therefore, in the compliance review there are no ranges of possible outcomes. **The outcome or standard for review has been predetermined -- that is the lowest cost.** SCE must demonstrate that it has complied with this standard, by providing sufficient information and/or analysis in order for the Commission to verify that SCE's dispatch resulted in the most cost-effective mix of total resources, thereby minimizing

[12] D.02-12-074, Ordering Paragraph 24b, emphasis added. The ellipsis indicates language deleted by D.03-06-076, at 27 and Ordering Paragraph 16.

[13] In D.05-04-036 in A.03-08-004, we found and concluded that the same scope of review of least-cost dispatch that was adopted in A.03-10-022 for SCE should also apply to PG&E's ERRA proceeding. *See* D.05-04-036 Finding of Fact and Conclusion of Law 4.

> the cost of delivering electric services. Based on analyses of SCE's showing and subsequent discovery, ORA or any other party may take the position that SCE did not fully comply with SOC 4. In such cases, we will judge the merits of the parties' positions and may impose disallowances and/or penalties, up to the maximum penalty cap.[14]

If the text quoted above fully captured the guidance provided by the Commission regarding least-cost dispatch, we could find that SCE's showing for the 2010 Record Period was inadequate. SCE's showing in the Application before us establishes only that SCE attempted to achieve least-cost dispatch; SCE has not documented that "the most cost-effective mix of total resources [was] used, thereby minimizing the cost of delivering electric services." This is inadequate, given our discussion in D.05-01-054, quoted above. As we noted earlier in this decision, SCE acknowledged that neither its testimony nor its workpapers includes a showing that SCE achieved least-cost dispatch during the Record Period.

In post-hearing briefs, SCE defends its showing. In its reply brief, as part of its critique of DRA's recommended disallowance, SCE describes its typical showing in ERRA compliance review proceedings:

> For years, SCE has provided DRA with, among other things, all its daily resource plans and the traditional, three detailed "deep dive" sample days from the relevant Record Period to support its LCD showing. That has always been sufficient for DRA, and for the Commission.[15]

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[14] D.05-01-054 at 14, emphasis added. For the 2010 Record Period, the maximum penalty cap for SCE is $64.7 million. *See* late-filed Exhibit SCE -9.

[15] SCE Reply Brief at 10.

SCE states further,

> Moreover, the "after-the-fact" LCD-compliance analysis DRA requests is unprecedented and inappropriate. DRA witness Stueve's claim that SCE could do an after-the-fact compliance analysis for a full annual Record Period in "a week or two" is unfounded speculation and untrue. In any event, the ERRA compliance review proceeding is appropriately not a forecasting-accuracy contest. As explained in length in SCE's Opening Brief, this proceeding is appropriately about whether or not SCE acted consistent with its Commission-approved Long-Term Procurement Plan. DRA has never claimed that SCE did not.[16]

As we noted above, ORA's position is that SCE's showing did not meet its initial burden of proof to provide evidence that it dispatched its energy in a least-cost manner pursuant to the SOC 4 mandate.

SCE's statement that its previous ERRA compliance showings--consisting of, "all its daily resource plans and the traditional, three detailed "deep dive" sample days from the relevant Record Period-- has always been sufficient for … the Commission" is incorrect. The Commission has never made an affirmative finding that a compliance showing based on the material described by SCE is sufficient to demonstrate compliance with the Commission's least-cost dispatch requirements. Rather, the Commission, in previous ERRA compliance decisions, has either accepted and agreed with ORA's position in those instances where no disallowance was recommended, or rejected the metric-based analyses submitted by ORA in support of a disallowance. Although the question of what showing was required to demonstrate success in achieving least-cost dispatch was raised

[16] *Id* at 11.

by the Commission in early ERRA compliance decisions, it was never resolved. It is for this reason that based on the record before us at this time, we do not levy either a disallowance or penalty on SCE in this proceeding. In short, SCE has not made a complete showing of success, but ORA has not made a convincing, fact-based showing that a specific disallowance is warranted.

To explain why we will not penalize SCE for its incomplete showing regarding whether it achieved least-cost dispatch during the 2010 Record Period, we must review the procedural history of ERRA compliance proceedings that followed our first decisions in A.03-10-022 and A.03-08-004. From our vantage point today in 2013, we find that those annual proceedings unfolded with a disappointing lack of adherence to the guidance we provided in D.05-01-054 and D.05-04-036. The compliance review process appears to have foundered on this statement from D.05-01-054:

> In this decision we have defined the scope of least-cost dispatch review and have indicated the utilities' responsibility for proving compliance with the least-cost dispatch standard. However, at this time, the Commission has not specified criteria that should be used to determine what constitutes least-cost dispatch compliance or what the utility needs to provide to meet its burden to prove such compliance. If there is a need for such criteria, it should be developed in a generic proceeding where all affected utilities, as well as interested parties, could participate. In the meantime, SCE and ORA should use a master data request process, as discussed later in this decision, as a means to reach some understanding on the types of information or analyses that would be useful in demonstrating SOC 4 compliance as it relates to least cost dispatch.

> Further, if ORA or another party can demonstrate that SCE has not dispatched resources in a least-cost manner, the Commission will review that evidence and make appropriate adjustments for non-compliance. [D.05-01-054 at 15-16]

Again, from our vantage point today in 2013, it appears that in D.05-01-054 we provided clear direction regarding the required showing for least-cost dispatch. ("*Therefore, in the compliance review there are no ranges of possible outcomes. The outcome or standard for review has been predetermined -- that is the lowest cost")* only to undercut that guidance later in the same decision *("In this decision we have defined the scope of least-cost dispatch review and have indicated the utilities' responsibility for proving compliance with the least-cost dispatch standard. However, at this time, the Commission has not specified criteria that should be used to determine what constitutes least-cost dispatch compliance or what the utility needs to provide to meet its burden to prove such compliance").*

We created similar potential for confusion with our statements regarding burden of proof. First, we placed the burden on the utility ("*SCE must demonstrate that it has complied with this standard, by providing sufficient information and/or analysis in order for the Commission to verify that SCE's dispatch resulted in the most cost-effective mix of total resources, thereby minimizing the cost of delivering electric services")* only to again undercut that guidance later in the decision ("*Further, if ORA or another party can demonstrate that SCE has not dispatched resources in a least-cost manner, the Commission will review that evidence and make appropriate adjustments for non-compliance*").

We appear to have compounded this problem with our proposed solutions:

> *If there is a need for such criteria, it should be developed in a generic proceeding where all affected utilities, as well as interested parties, could participate. In the meantime, SCE and ORA should use a master data request process, as discussed later in this decision, as a means to reach some understanding on the types of information or analyses that would be useful in demonstrating SOC 4 compliance as it relates to least cost dispatch.*

The generic proceeding suggested above never took place, and, as we have seen in the instant application, the master data request process that has been used instead has deteriorated into multiple rounds of discovery followed by soured relations between ORA and utility staff. Most troubling of all, our review of ERRA compliance proceedings since 2003, and the resulting decisions, indicates that the guidance quoted above succeeded mainly in providing the utilities an opportunity to shift the burden of proof onto ORA. The utilities took advantage of that opportunity and, for reasons that are not clear to us, ORA accepted the burden.

SCE's showing regarding least-cost dispatch is primarily based on its responses to questions in the Master Data Request providing extensive information about the "highest, lowest and average energy load days" during the record period. This approach was developed in collaboration with ORA over the course of several ERRA compliance proceedings. We can see that this information may have some limited educational value. However, given our direction in D.05-01-054 and D.05-04-036 that the utility must provide, "sufficient information and/or analysis in order for the Commission to verify that [the utility's] dispatch resulted in the most cost-effective mix of total resources, thereby minimizing the cost of delivering electric services," it is difficult to

understand why any utility would think that three days of data would suffice, nor why ORA would agree to such an approach.[17] Unfortunately, the least-cost dispatch component of ERRA compliance proceedings has since devolved into annual exercises where, in the absence of any affirmative showing by the utilities that they did or did not achieve least-cost dispatch, ORA either chose not to contest that aspect of the utility application, or devised various analytical

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[17] In fact, what we envisioned as a collaborative and efficient "Master Data Request" (MDR) process has deteriorated to the point where SCE includes an objection to many of ORA's questions in its response to those questions—questions that we expected SCE to have developed **collaboratively** with ORA, pursuant to our earlier order in D.05-01-054. *See*, for example, SCE's response to the basic question on the three sample days that, in other contexts, SCE asserts is the foundation of its showing of compliance with the Commission's least-cost dispatch standard:

Question 1.4.1. Explain whether or not the lowest cost mix of resources within given constraints was achieved for the highest, lowest and average energy (MWh) load days during the record period. Provide all supporting analyses.

SCE prefaced its response with the following objection:

> SCE generally objects to these data requests on the grounds that the data requests are vague, ambiguous, overbroad, and/or unduly burdensome and objects to the extent to which they seek information subject to attorney-client privilege or to the attorney work product doctrine. In addition, SCE objects to the extent that the request is not relevant and material to the subject of this proceeding and to the extent that the answers sought are not likely to lead to the production of admissible evidence. Notwithstanding these objections, SCE has provided a response to each of the data requests to the extent possible. Such responses are not intended and should not be construed to be a waiver by SCE of all or any part of SCE's objections to this request. Moreover, the attached responses to data requests are given without prejudice to the production of subsequently discovered facts or evidence, or the presentation of facts or theories resulting from subsequently discovered evidence.

approaches on its own in an attempt to evaluate the utility showing.[18] With respect to SCE, ORA has yet to sustain a case for a disallowance in the few years when it attempted to do so.

Regarding ORA's testimony on SCE's least-cost dispatch showing for 2010, as we summarized above, ORA has devised an analytical approach that involves positing a theoretical metric, then reviewing SCE's actual results against that metric, finding those results lacking, and recommending a disallowance based on the gap between the metric and SCE's actual results. ORA has taken this approach, of basing a disallowance calculation on metrics rather than direct evidence, in prior ERRA review cases, and we rejected the resulting recommendation.[19] We do so again here, but we repeat that we commend ORA for its efforts, especially in the context of the challenging analytical exercise it agreed to take on, in the absence of a fully supported SCE showing of the extent to which it achieved least-cost dispatch, a showing that logic suggests should have been provided with SCE's application and testimony when it was initially filed in April, 2011.

Even acknowledging some possible confusion due to the conflicting text quoted above from D.05-01-054, this outcome--where the burden of proof is shifted onto the party protesting the utility compliance applications--was clearly not what the Commission intended in D.05-01-054. Given the billions of dollars in revenues at stake, and the commensurate impact on customer bills, we are

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[18] *See* D.05-01-054, D.05-02-006, D.06-01-007, D.06-11-016, D.07-12-027, D.08-11-021, D.10-07-049, and D.11-10-002 in A.03-10-022, A.04-04-005, A.05-04-004, A.06-04-001, A.07-04-001, A.08-04-001, A.09-04-002, and A.10-04-002, respectively.

[19] *See*, for example, D.05-02-006 in A.04-04-005, and D.06-01-007 in A.05-04-004. Both are ERRA compliance reviews for SCE.

most disappointed that the utilities--which possess all the information needed to show whether or not they complied with SOC 4--did not act in better faith to develop and support a workable compliance review process. The utilities also have the staffing necessary to develop this showing, because we have funded that staffing as part of their annual administrative expenses for all procurement functions. In 2010, that budget for SCE reached $32.4 million.[20] It is not clear how much of these funds were directed by SCE toward an effort to determine whether the $3.2 billion paid by SCE's customers for their electricity in 2010 reflects SCE's success in "minimizing the cost of delivering electric services" as we directed in D.05-01-054.

4.1.4.1. Workshop on Least-Cost Dispatch

In summary, although SCE's least-cost dispatch showing is consistent with its showing for previous Record Periods and we acknowledge that the Commission made no disallowances on previous SCE least-cost dispatch showings, we conclude that SCE's own testimony in this Record Period demonstrates that its showing is not fully consistent with Commission direction regarding the showing necessary to demonstrate successful least-cost dispatch. Faced with this discrepancy between our own past actions and the incomplete nature of SCE's showing for this Record Period, we conclude that we should accept SCE's least-cost dispatch showing for the 2010 record period as adequate but clarify our expectations for future showings.

[20] Exhibit SCE-11.

Based on the guidance we provided in our first decision on SCE's ERRA compliance showing, a complete showing of least-cost dispatch by SCE should include precise numerical calculations that either demonstrate that SCE achieved least-cost dispatch during the Record Period, or quantify the amount of overspending by SCE. We should leave this proceeding open and direct the Commission's Energy Division to facilitate a workshop where SCE and other interested parties can work together to develop proposed criteria that should be used to determine what constitutes least-cost dispatch compliance, and the resulting methodology SCE should follow to assemble a showing to meet its burden to prove such compliance. Following the workshop, SCE shall file and serve a report in this docket for our consideration. We intend to review the results in time to enable SCE to implement the methodology to quantify the degree to which it achieved, or did not achieve, least-cost dispatch during the 2014 Record Period and include that showing in its ERRA compliance application in 2015. If we find that SCE has not worked collaboratively with other parties to develop the material we are requesting, we will conclude that SCE has declined to make a showing of least-cost dispatch, and consider imposing penalties for SCE's non-compliance with SOC 4, as we first contemplated in D.02-12-074. Therefore, this proceeding shall remain open for the purpose of reviewing SCE's post-workshop report.

In conclusion, while we find in this decision that—in the absence of a showing the contrary—SCE's least-cost dispatch activities complied with its Conformed 2006 Long-Term Procurement Plan, we caution SCE to take seriously our concerns regarding the shortcomings of its showing on least-cost dispatch. Our concern is that SCE not only plan to "get it right" and minimize procurement costs for the benefit of its customer, but that it verify that its plans

and intentions have succeeded, and that it take corrective actions when its efforts fall short. The most productive use of the annual ERRA compliance proceedings is to help SCE, as well as PG&E and SDG&E in their own proceedings, to identify best practices and areas for improvement when those opportunities exist. We will emphasize this in future proceedings, while retaining the right and obligation to levy disallowances or penalties if warranted.

4.2. URG

SCE's testimony regarding "utility retained generation" covers five chapters in its April 1, 2011 filing:

1. Chapter III, Hydroelectric Generation;
2. Chapter IV, Coal Generation;
3. Chapter V, Gas-Fueled Generation;
4. Chapter VI, Other Generation; and
5. Chapter VII, Nuclear Generation and Fuel.

ORA's September 29, 2011 Report on SCE's Application combines its review of these chapters into a single chapter, "Utility Retained Generation." In that chapter, ORA states that, after review of SCE's application, testimony, workpapers, and responses to Data Requests, DRA concludes:

1. No imprudence was evident in SCE's operational management, excluding least-cost dispatch, of its URG facilities or of its mitigation of URG outages.
2. ORA does not object to SCE's request to recover its ERRA fuel procurement costs.
3. ORA recommends that for the 2012 Record Period the Commission order SCE to directly address its URG outages and associated fuel costs in SCE's ERRA Compliance Application and filed testimony.

4. ORA recommends that the Commission order SCE to directly address its internal auditing of URG management, outage avoidance, outage mitigation, and associated fuel costs in SCE's ERRA Compliance Application for the 2012 Record Period.
5. ORA requests that the Commission order SCE to complete, during the 2012-2013 Record Periods, a comprehensive audit of two URG facilities: (1) the SONGS facility (both units) and (2) the Big Creek hydroelectric facilities (all units).

In its November 15, 2011 rebuttal testimony, SCE responded to ORA's recommendations. SCE's rebuttal is included in the relevant sections below.

4.2.1. Hydroelectric Generation

In Chapter III of Exhibit SCE-1, SCE discusses its operation of its hydroelectric facilities during the record period. In 2010, SCE operated and maintained 33 hydro-generating plants including 33 dams, 43 stream diversions, and approximately 143 miles of tunnels, conduits, flumes, and flow lines. These resources have an aggregate 1,176 Megawatt (MW) of nameplate generating capacity. SCE asserts that its testimony demonstrates that SCE's hydroelectric facilities were operated in a prudent manner during the Record Period.[21]

Following its review of SCE's application, testimony, workpapers, and responses to Data Requests, ORA concluded that no imprudence was evident in SCE's operational management, excluding least-cost dispatch, of its URG facilities.

[21] Exhibit SCE-1 at 30.

Based on our own review of SCE's testimony and ORA's testimony, we conclude that SCE operated its hydroelectric facilities reasonably during the Record Period.

ORA's recommendation that the Commission order SCE to complete a comprehensive audit of the Big Creek hydroelectric facilities is addressed later in this decision.

4.2.2. Coal Generation

In Chapter IV of Exhibit SCE-1, SCE discusses its operation of its coal generation resources during the Record Period. SCE states that its coal-fired generating resources consist of 48 percent ownership of Four Corners Generating Station Units 4 and 5, operated by Arizona Public Service (APS). Units 4 and 5 each have a net rating of 750 MW. Unit 4 entered commercial operation in 1969 and Unit 5 followed in 1970. The Four Corners Generating Station is located 25 miles west of Farmington, New Mexico, on the Navajo Indian Reservation.[22]

Following its review of SCE's application, testimony, workpapers, and responses to Data Requests, ORA concluded that no imprudence was evident in SCE's operational management, excluding least-cost dispatch, of its URG facilities.

Based on our own review of SCE's testimony and ORA's testimony, we conclude that SCE operated its coal generation reasonably during the Record Period.

[22] Exhibit SCE-1 at 56.

4.2.3. Gas-Fueled Generation

In Chapter V of Exhibit SCE-1, SCE discusses its operation of its gas-fueled generation resources during the record period. SCE states that it owns and operates four Peaker generating plants (known as the SCE Peakers) and Mountainview. These plants are fueled by natural gas. SCE's testimony presents SCE's operation of the SCE Peakers and Mountainview during the Record Period and its related fuel costs for these facilities.[23]

4.2.3.1. SCE Peakers Performance during the Record Period

In its testimony, SCE reviews the performance of the SCE Peakers during the Record Period, including fuel usage and cost, reliability, and outage events.

ORA did not specifically address SCE's testimony on SCE Peakers as part of its September 29, 2011 Report on SCE's URG. However, ORA generally states that after review of SCE's application, testimony, workpapers, and responses to Data Requests and for all the reasons discussed in its testimony, ORA concludes that no imprudence was evident in SCE's operational management, excluding least-cost dispatch, of its URG facilities or of its mitigation of URG outages, and that ORA does not object to SCE's request to recover its ERRA fuel procurement costs.

Based on our own review of SCE's testimony and ORA's testimony, we conclude that SCE operated its SCE Peakers reasonably during the Record Period.

[23] Exhibit SCE-1 at 73-84.

4.2.3.2. Mountainview's Performance during the Record Period

Mountainview is a two-unit (Units 3 and 4) combined cycle gas-fired power plant located in Redlands, California. Units 3 and 4 have a combined total nominal capacity of 1,050 MW. Each unit has two combustion turbines and one steam turbine, and produces approximately 525 MW. Unit 3 became commercially operable December 9, 2005 and Unit 4 became commercially operable January 19, 2006.

Mountainview was originally owned by a wholly-owned subsidiary of SCE, Mountainview, LLC (MVL). In D.09-03-025, the Commission ordered SCE to transfer ownership of Mountainview from MVL to SCE. Ownership was transferred on July 1, 2009 and, as a result, the Commission and FERC-approved Mountainview Power Purchase Agreement between MVL and SCE (MVL PPA) was terminated. As a result of this transfer of ownership, all of Mountainview's capital, operation, and maintenance costs recorded in 2010 are recovered through SCE's base rates, and the fuel costs and incentive mechanism payments through the instant ERRA review proceeding.

In its testimony, SCE states that, to encourage plant reliability (measured as plant "availability"), Mountainview is subject to a reliability incentive program. Mountainview availability is computed for each summer and winter season, and is compared to a target value. Mountainview's summer availability target is 97%; during 2010, the winter availability incentive target was 92%. The summer availability annual incentive provides an award/penalty of $360,000 for each percentage point of availability performance above/below the 97% target. The annual winter availability incentive provides an award/penalty of $60,000 for each percentage point of performance above/below the 92% target.

SCE states that in 2010 Mountainview achieved a summer and winter availability performance that exceeded the respective targets: Mountainview achieved a summer availability of approximately 99.65% and a winter availability of approximately 92.56%. SCE calculates that this yields an availability incentive bonus payment of $1,166,495 for 2010.[24]

As noted above, ORA recommends that the 2010 incentive bonus payment calculated by SCE be disallowed. ORA disputes SCE's assertion that D.09-03-025 supports SCE receiving Mountainview's 2010 winter and summer availability incentive bonus. ORA argues that although SCE's direct testimony in its 2009 General Rate Case (GRC) recommended the revised methodology for calculating the incentive payment that SCE has applied in this proceeding, the Commission made neither a finding, a conclusion of law, nor an order in D.09-03-025 that actually authorized SCE to revise Mountainview's availability incentive calculation. Therefore, SCE should not be allowed to recover its proposed availability incentive bonus payment of $1,166,495.

SCE responded to ORA's recommendation in its November 15, 2011 rebuttal testimony and also filed a Motion to Strike the portion of ORA's testimony related to the Mountainview incentive payment.

In its rebuttal, SCE states:

> Contrary to DRA's assertion in its Report, the Commission did authorize SCE to make necessary changes to how Mountainview availability incentive payments would be calculated prospectively and to record these payments in the ERRA [footnote omitted]. The procedural history of the Commission's review and subsequent approval of SCE's

[24] Exhibit SCE-1 at 83 and the supporting workpaper, Exhibit SCE-9-C.

> proposal to modify this calculation is set forth on pages 2-4 of SCE's motion and is incorporated here by reference. As this procedural history shows, SCE's proposal to modify this calculation was acknowledged and unopposed by DRA and adopted by the Commission.

In its motion, SCE argues that ORA's argument should be struck because it is a collateral attack on prior Commission decisions. SCE states that SCE's proposals to include Mountainview in rate base and to slightly modify and continue the availability incentive in the ERRA were unopposed by ORA in SCE's 2009 GRC proceeding and were adopted by the Commission in D.09-03-025.[25]

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[25] The assigned ALJ denied SCE's motion at the beginning of evidentiary hearings (RT at 6: "I'm going to deny that motion, and my reason is basically that without prejudging the outcome, I'd like to have that material in the record in this proceeding for the Commission to consider it in making its Decision. So we'll leave that in the record and we'll have briefing on that.")

SCE's November 15, 2011 Motion also sought to strike those portions of DRA's testimony regarding the Mohave Balancing Account. In its Opening Brief, in the section discussing the Mohave Balancing Account (MBA), SCE states "Although ALJ Roscow orally denied SCE's Motion to Strike DRA's testimony regarding the MBA (Motion), he did not address its merits. SCE hereby renews the Motion, which is attached hereto as Exhibit C, and respectfully requests that if the Motion is not granted, that the Proposed Decision address its merits. If the Motion is not granted, SCE formally reserves its right to seek further Commission consideration and/or applicable appellate review. [SCE Opening Brief at 26].

Although not clearly worded, SCE appears to be renewing only the portion of its motion related to the MBA, even though it attached the entire motion to its Brief. Nevertheless, to be clear, we affirm the ALJ's initial ruling and deny SCE's motion in its entirety. We also note that, contrary to SCE's statement in its Brief, the ALJ did address the merits of SCE's motion, finding that the material SCE wished to strike from the record should be "in the record in this proceeding for the Commission to consider it in making its Decision." ORA's observation that the Commission made neither a finding, conclusion of law nor order in D.09-03-025 regarding SCE's proposal is a reasonable

Footnote continued on next page

4.2.3.2.1. Discussion

We approve SCE's requested Mountainview availability incentive bonus payment of $1,166,495 for 2010. ORA's doubts regarding the Commission's intent in D.09-03-025, though reasonable, are not ultimately compelling in light of the entire record in that proceeding and since that time. As SCE points out, ORA's testimony in A.07-11-011 did include the statement that "SCE also requests modifications to the Mountainview availability incentive to smooth activities in the California Independent System Operator's markets. ORA does not oppose the proposed modifications." Because SCE's request was unopposed, it was not unusual that the Commission's decision in that proceeding, which reached just under 400 pages, did not identify and approve each and every unopposed proposal made by SCE. On the other hand, if ORA had opposed SCE's proposal at that time, D.09-03-025 would have specifically addressed ORA's recommendation. Once D.09-03-025 was issued, SCE proceeded to implement it via Advice Filing, including the revised Mountainview methodology, and this methodology was in fact applied in the SCE ERRA proceeding immediately preceding this one (A.10-04-002). As SCE succinctly summarizes this history in its reply brief:

> But it is unreasonable for SCE to propose modifications to a formula calculation in one proceeding; have DRA state in that proceeding that it "does not oppose the proposed modifications;" for SCE to then implement the modifications in the next ERRA proceeding (for the 2009 Record Period); for

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basis for doubt regarding the Commission's specific intentions, and thus constitutes a reasonable foundation for ORA's testimony in this proceeding. SCE's arguments to the contrary were not compelling, so the ALJ denied SCE's motion so that ORA's testimony could be considered by the Commission.

> the Commission to accept that revision in the next ERRA proceeding (for the 2009 Record Period); and then for DRA to argue that for the 2010 Record Period SCE's incentive should be disallowed, even though it is undisputed that it was correctly calculated pursuant to the modified formula. Yet that is exactly what DRA's disallowance recommendation would have the Commission do.[26]

We agree with SCE. SCE's availability incentive bonus payment for Mountainview is accurately stated and is reasonable.

4.2.3.3. Mountainview Emission Credits

In its Report, ORA recommends that SCE should not be allowed to recover $789,000 for 2010 Mountainview Emission Credits. ORA explains that pursuant to D.09-03-025 SCE recovers Mountainview emission credits in rate base, not in SCE's Compliance ERRA proceeding.

In its rebuttal testimony, SCE states that ORA is incorrect, and provides a more extensive explanation of the ratemaking treatment of Mountainview Emission Credits:

> Contrary to DRA's assertion, the fact that the Mountainview emission credits have been included in rate base does not mean that SCE has already "recovered" these costs from its customers. DRA fails to understand that rate base is not a "recovery" mechanism, but instead represents SCE's "upfront" investment costs on behalf of its customers. Because rate base represents the balance of costs the company has invested on behalf of the customers, the Commission allows SCE to earn a return on the rate base. In the case of Mountainview, SCE paid for emission credits up front as part of the total cost to acquire the plant, and has not yet recovered

[26] SCE Reply Brief at 21.

> the cost of these emission credits in rate base from its customers. The Commission in D.09-03-025 allowed SCE to recover the cost of the emission credits from customers once the credits have been consumed (i.e., used). When the emission credits are used, the cost of the emission credit is expensed (i.e., similar to depreciation expense) and that expense is recorded in the ERRA and recovered from customers. In addition, once the credits are expensed, rate base is reduced accordingly, and SCE no longer earns a return on the expensed amount. SCE continues to earn a return on the unrecovered emission credit balance.
>
> The recovery of Mountainview-related emission credits was litigated and approved in D.09-03-025. The $0.789 million recorded in the ERRA represents the emission credits that were consumed during the Record Period. SCE has recorded this expense in the ERRA pursuant to Preliminary Statement, Part ZZ, ERRA. DRA's claim that SCE is double-recovering these Mountainview-related emission credits is thus incorrect. DRA's recommendation to disallow recovery of $0.789 million of emission credit costs should accordingly be rejected.[27]

ORA acknowledges SCE's rebuttal, but asserts that SCE nevertheless failed to demonstrate that the mechanism SCE describes results in appropriate reductions to ratebase. ORA recommends that SCE's request to recover $789,000 in Mountainview emission credits for Record Period 2010 should be deferred for consideration in SCE's ERRA Compliance case for the record year 2011.

[27] SCE-6C, at 23-24.

4.2.3.3.1. Discussion

Based on our review of the testimony of SCE and ORA, we find that the explanation provided by SCE's rebuttal witness is convincing. Thus, we will reject ORA's recommendation that our review of the reasonableness of SCE's request for recovery of the Mountainview emission credits for the Record Period 2010 be deferred.

4.2.4. Other Generation

In Chapter VI of Exhibit SCE-1, SCE provides testimony regarding two types of "other generation": Catalina Diesel Fuel and Transportation Costs and SCE's Solar Photovoltaic Program.[28] SCE asks that we conclude that SCE's URG facilities, including solar photovoltaic and Catalina Diesel, were operated, and outages were mitigated, in a reasonable and prudent manner during the Record Period.

4.2.4.1. Catalina Diesel Fuel and Transportation Costs

SCE operates the diesel-fueled Pebbly Beach generating facility on Santa Catalina Island. During the Record Period, SCE purchased 52,593 barrels of diesel fuel and burned approximately 52,000 barrels of diesel for electric generation at the facility. The average total cost per barrel was $117. SCE states that due to the isolated nature of the island's limited diesel storage capacity and the complexity of delivery, integrity of supplies is of the utmost importance. Therefore, rather than relying on the unstable spot wholesale diesel market to meet ongoing requirements on Santa Catalina Island, SCE purchased fuel from a major supplier, Southern Counties, under a long-term (three year) contract. SCE

[28] Exhibit SCE-1 at 85-91.

contracts with Catalina Freight Lines to provide truck and barge transportation from the Wilmington, California area refinery loading racks to the facility on Santa Catalina Island. Catalina Freight Lines is a Commission-regulated common carrier and provides service to SCE at a bulk wholesale rate that is less than the tariff rate normally charged for deliveries to the island. SCE states that its diesel fuel and transportation costs should be found reasonable.

SCE's testimony demonstrates that its diesel fuel and transportation costs facilities were managed in a prudent manner during the Record Period. In its testimony, ORA does not take issue with SCE's showing in its Report on other fuel and generation operations. Based on the testimony of SCE and ORA, we conclude that SCE's management of its Catalina diesel fuel and transportation costs during the Record Period was reasonable.

4.2.4.2. SCE's Solar Photovoltaic Program (SPVP)

In Chapter VI of Exhibit SCE-1, SCE states that "pursuant to D.09-06-049, SCE sets forth for Commission review the operation of its two commercially operational utility-owned PV generating facilities during the Record Period."[29] SCE requests that the Commission find that SCE operated its solar photovoltaic (SPV) URG resources reasonably during the Record Period.[30]

On June 18, 2009, the Commission issued D.09-06-049, which approved SPVP in SCE's service area. The SPVP originally authorized SCE to install, operate, and maintain up to 250 MW of utility-owned SPV generating facilities ranging primarily in size from 1 to 2 Megawatt (MW) each on commercial and

[29] Exhibit SCE-1 at 87, citing D.09-06-049, Conclusion of Law No. 9.

[30] SCE Opening Brief at 34.

industrial rooftop space. SCE planned to develop these facilities through 2014, targeting approximately 50 MW to be developed on an annual basis, with no more than 10 percent of the program to consist of ground-mounted SPV.[31]

In D.09-06-049, in addition to approving the substantive aspects of SCE's application, we addressed cost recovery and the scope and timing of reasonableness review. We stated that we will review SCE's operation of SPVP (including SCE's maintenance practices and performance of the facilities) in its ERRA compliance proceeding, and review all program costs (including O&M costs) in SCE's GRC.[32]

We adopted SCE's proposal regarding reasonableness review, and explained our decision at some length:

> As a general matter, the Commission has an ongoing duty to ensure that utility investments result in infrastructure that is used and useful. In the context of utility owned generation, we have long-standing policies and procedures in place under which utility projects are reviewed to make sure that approved investments are being made in a reasonable manner and that the resulting facilities actually fulfill their stated purpose. As SCE points out, in the context of utility generation projects, this review is done in the utilities' annual Energy Resources Recovery Account proceedings. We see no compelling reason why in the context of the SPVP we should stray from this existing process. While the program is itself new there is nothing about the UOG [utility-owned generation] portion of the program, nor anything parties have presented, to suggest that the ERRA proceeding and the after the fact reasonableness review of operations conducted therein is insufficient to protect ratepayer interests. As SCE

[31] D.12-02-035 modified D.09-06-049 to lower SCE's authorized amount to 125 MW.

[32] D.09-06-049 at 45.

> notes, should the Commission find in the ERRA proceeding that SCE did not live up to its responsibilities or did not prudently maintain and operate the solar facilities built pursuant to this program, the Commission can disallow recovery of certain costs.

We also quote SCE's proposal in the SPVP proceeding below, because the process it describes, which the Commission endorsed in D.09-06-049, is not consistent with SCE's showing in the instant application.

> In addition, the performance of the solar panels will be subject to Commission review. As discussed above, SCE requests that the Solar PV rooftop generation be treated consistent with all other SCE-owned generation. There is a well established process to ensure system performance. The well established process for reviewing system performance of SCE's owned generation units takes place in SCE's annual Energy Resources Recovery Account (ERRA) reasonableness proceedings. **In the ERRA reasonableness proceedings, SCE must <u>prove</u> that its plant operations were <u>reasonable</u>. Therefore, in the ERRA reasonableness proceedings, the Commission, "after-the-fact," determines if SCE has effectively managed its generating units in order to achieve appropriate system performance based on what it knew or should have known at the time.** In future ERRA proceedings, if the Commission found that the Solar PV Program generation did not operate in a prudent manner, the Commission could disallow recovery of the replacement power costs (i.e., to be borne by SCE's shareholders rather than customers). [footnote omitted.] This process, consistent with the evaluation of the performance of all SCE-owned generation, will create adequate incentives for prudent system performance. No additional incentives are necessary.[33]

[33] SCE Opening Brief in A.08-03-015 at 28-29, emphasis added.

In its testimony in Chapter VI of Exhibit SCE-1, SCE begins with an overview of its SPVP, followed by an overview of SPV Operations, their characteristics, routine operations, and factors affecting output. This is followed by a discussion of SCE's SPV Generating Facilities' Performance during the Record Period, including SPVP capacity factor and availability factor, and Fontana site outages. The Chapter ends after presenting this descriptive material. The testimony does not include any effort by SCE to "**prove that its plant operations were reasonable.**" Therefore, it is impossible for the Commission to follow the review process that SCE itself proposed, to "after-the-fact", "determine if SCE has effectively managed its generating units in order to achieve appropriate system performance based on what it knew or should have known at the time."

The only data presented in SCE-1 that addresses SCE's maintenance practices and performance of the SPVP facilities is the statement that "the 2010 performance for both sites was consistent with the generation and capacity factor of SPVP 001 Fontana in 2009," summarized in Table VI-28, "SPVP Capacity Factor and Availability Factor MWh During The Record Period."[34] However, SCE's testimony in its 2009 ERRA compliance review, which SCE attached to its Opening Brief in the instant proceeding, includes this statement: "The CF [capacity factor] for both sites was lower than expected due to decreased production capability that was caused by low solar irradiance and panel soiling."[35] As SCE states in its testimony in this proceeding (as well as in

[34] Exhibit SCE-1 at 90.

[35] SCE Opening Brief, Attachment A: Exhibit SCE-1 in A.10-04-002 at 92-108.

A.10-04-002), "panel soiling can cause decreased panel efficiency. SCE regularly monitors system output to determine when cleaning is required." In short, SCE testifies that the capacity factor for both sites in 2010 was "consistent with" the generation and capacity factor of SPVP 001 Fontana in 2009, but that site's capacity factor in 2009 was lower than expected due, in part, to panel soiling, which is a maintenance issue that SCE "regularly monitors." One possible inference--in the absence of an affirmative showing by SCE--is that poor maintenance practices by SCE reduced the 2010 capacity factors below expected levels, leading to lower than forecast generation, which had to be replaced by market purchases of unknown amounts or cost. All of this is unknown, because none of this information is included in SCE's showing, contrary to SCE's promise in A.08-03-015.

SCE may consider this a minor oversight in a large compliance filing. We do not. A review of the record in A.08-03-015 shows that the Commission and interested parties expended considerable effort in reviewing SCE's proposed SPVP program, including questions of oversight and reasonableness of the program as it was implemented. We conclude in this decision that SCE has not supported its request that the Commission finds that SCE operated its SPV URG resources reasonably during the Record Period. We direct that SCE include testimony in its next ERRA compliance filing that fully demonstrates whether, and how, SCE has effectively managed its SPVP generating units in order to achieve appropriate system performance. SCE's testimony should cover all commercial operations since the inception of the SPVP program through the record period covered by SCE's next ERRA compliance filing. We will consider the question of disallowances or penalties after we have reviewed SCE's testimony.

4.2.5. Nuclear Generation and Fuel

In Chapter VII of Exhibit SCE-1, SCE describes the San Onofre Nuclear Generating Station (SONGS) and Palo Verde Nuclear Generating Station (Palo Verde) generation and nuclear fuel expenses incurred by SCE during the Record Period. In addition, the testimony provides an overview of SCE's planning, procurement, and scheduling of nuclear fuel materials and services and the reasonableness of nuclear fuel material and services purchased by SCE during the Record Period for its ownership share of SONGS and Palo Verde. SCE asserts that, based upon its testimony, the Commission should find reasonable the generation, nuclear fuel expenses, and fuel material and services that SCE purchased for both SONGS and Palo Verde during the Record Period.[36]

ORA did not specifically address SCE's testimony on nuclear generation and fuel as part of its testimony on SCE's URG, but concludes that after review of SCE's application, testimony, workpapers, and responses to Data Requests no imprudence was evident in SCE's operational management, excluding least-cost dispatch, of its URG facilities or of its mitigation of URG outages. Furthermore, ORA does not object to SCE's request to recover its ERRA fuel procurement costs.[37]

Based on our own review of SCE's testimony, we conclude that the generation, nuclear fuel expenses, and fuel material and services that SCE purchased for both SONGS and Palo Verde during the Record Period were reasonable.

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[36] Exhibit SCE-1 at 92-108.

[37] Exhibit DRA-1 at 3-3.

4.2.6. ORA's Audit Recommendations

Before concluding our review of SCE's URG during the record period, we turn to ORA's recommendation that the Commission "order SCE to directly address its internal auditing of URG management, outage avoidance, outage mitigation, and associated fuel costs in SCE's ERRA Compliance Application for the 2012 Record Period" and "order SCE to complete, during the 2012-2013 Record Periods, a comprehensive audit of two URG facilities: (1) the SONGS facility (both units), and (2) the Big Creek hydroelectric facilities (all units)."[38]

ORA's recommendation appears to be the result of shortcomings it finds with SCE's primary showing, its testimony in support of its application:

> SCE's application and prepared testimony failed to discuss its internal auditing of URG operations, either for fuel procurement or for outage management, despite continued expressed interest in this area by DRA and the Commission.

ORA provides a thoughtful discussion of the value of internal auditing, and notes that, once discovery began:

> SCE did comply with DRA discovery requests pertaining to the prudency of SCE's internal control of URGs, including outage management, and DRA found no reason to challenge SCE's internal controls. DRA concludes that no specific outage could be shown to be the result of specific imprudent management and that no specific outage (once started) could be shown to be imprudently managed.
>
> After reviewing SCE's responses to DRA's Data Requests, DRA does believe that SCE generally intends to use an appropriately risk-based approach to develop its internal

[38] *Ibid.*

> audit plan and identify individual audits that are to be performed.

Thus, ORA's recommendation that the Commission order SCE to directly address its internal auditing of URG management, outage avoidance, outage mitigation, and associated fuel costs in SCE's ERRA Compliance Application for the 2012 Record Period stems from the challenges it faced in reviewing SCE's primary showing regarding the 2010 Record Period.

SCE's response to ORA's testimony indicates that it believes the matter is settled:

> not only is DRA's attempt to direct SCE's internal audit activity at odds with established auditing standards and policies, it is also unnecessary, as admitted by DRA in its Report. As DRA acknowledges in its Report, SCE fully explained its internal controls during discovery in this proceeding and demonstrated that they are completely appropriate.[39]

ORA notes again in its Opening Brief that it was the lack of information in SCE's **application and prepared testimony** that motivated ORA's recommendation. SCE misinterprets ORA's recommendations. ORA clarifies that it is not proposing "to compromise the organizational independence of SCE's ASD (Audit Services Department)," but that ORA is simply proposing that it be one of the stakeholders consulted as part of the process of developing SCE's audit plan. ORA disagrees with SCE's charge that ORA's recommendations are contrary to the "established IIA [Institute of Internal Auditors] Standards," but in actuality ORA's recommendations align directly with the IIA Standards:

[39] SCE Opening Brief at 32.

> Interpretation 2010.A2 to IIA Standard 2010 ("Planning") requires SCE's ASD to "identify and consider the expectations of senior management, the board, and other stakeholders for internal audit opinions and other conclusions."
>
> DRA is simply asking the Commission to ensure that DRA is part of the "other stakeholders" group that is consulted during the development and implementation of future audit plans. Further, DRA is asking the Commission to establish a formal communication loop by having SCE formally respond to any recommendations DRA makes so that it understands how its "expectations" were addressed in the final audit plan.

4.2.6.1. Discussion

Elsewhere in this decision, we have expressed our concerns regarding the incomplete nature of other portions of SCE's application and testimony. ORA's experience reviewing SCE's showing on URG management and outages only adds to our unease. A "compliance showing" is meant to be just that: a showing demonstrating utility compliance with Commission orders and standards. Instead, we note that an intervenor in the instant application must resort to discovery to obtain even the most basic information that should have been included in SCE's application in the first place. SCE's argument that the matter is resolved because, "SCE fully explained its internal controls **during discovery**" simply confirms that its initial showing was inadequate.

For these reasons, we adopt ORA's recommendation that we order SCE to directly address its internal auditing of URG management, outage avoidance, outage mitigation, and associated fuel costs in SCE's next ERRA Compliance Application filing (that is, for the 2013 Record Period). Specifically, SCE shall ensure that ORA is part of the "other stakeholders" group that is consulted during the development and implementation of future audit plans, and SCE shall

formally respond to any recommendations ORA makes so that ORA understands how its expectations were addressed in the final audit plan.

However, we decline to accept ORA's specific audit recommendations, namely that we order SCE to complete, during the 2012-2013 Record Periods, a comprehensive audit of two URG facilities: (1) the SONGS facility (both units), and (2) the Big Creek hydroelectric facilities (all units). We prefer to wait and provide SCE the opportunity to work with ORA, as we have directed above, regarding internal auditing procedures.

4.3. Utility Contract Administration and Costs

In Chapter VIII of Exhibit SCE-1, SCE describes its activities regarding non-QF contract administration and the associated costs. During the Record Period, SCE administered 362 bilateral contracts related to electric purchases, sales, transmission, and exchanges. SCE believes it administered these contracts in good faith, and according to their terms and conditions.[40]

Furthermore, SCE offers its interpretation of the Commission's intent regarding review of utility contract administration and costs:

> The Commission has noted on several occasions that the administration of a utility's non-renewable procurement contracts has not historically been the cause of significant penalties and that it does not expect contract administration reviews to result in disallowance penalties in the future. [Footnote: D.02-12-069; D.02-12-074, p. 53; D.03-06-076, p. 28.] The Commission has provided significant guidance on what it expects from the utility when reviewing contract administration, and on the scope and nature of such reviews.

[40] Exhibit SCE-1 at 109.

In Chapter 5 of Exhibit DRA-1, ORA states that it reviewed the contract administration processes, contract activity, and training programs for SCE's non-QF contracts, including bilateral contracts, during the Record Period, and has no objection to SCE's non-QF contract administration processes, contract activity, and training programs for the Record Period.

Based on the testimony of SCE and the testimony of ORA, and our review of the record, we conclude that SCE prudently administered its non-QF contracts during the Record Period. SCE's costs associated with the administration of its non-QF contracts during the Record Period were reasonable.

4.4. Public Utility Regulatory Policies Act of 1978 (PURPA) Contract Administration and Costs

In Chapter IX of Exhibit SCE-2, SCE reviews its PURPA contract administration and associated costs. SCE administers over 150 power purchase agreements (PPAs) entered into pursuant to the Commission's implementation of PURPA. The counterparties to these PPAs are generally referred to as QFs within the meaning of PURPA, and consist of either small power producers that use renewable resources, or co-generators as defined in PURPA. Most of these PPAs are "standard offer" contracts approved by the Commission, including:

1. Standard Offer 1 (SO1);
2. Standard Offer 2 (SO2);
3. Standard Offer 3 (SO3); and
4. Interim Standard Offer 4 (ISO4) contracts.

In addition, SCE has entered into "nonstandard" or negotiated (NEG) contracts with QFs, usually based on a standard offer, which have been approved by the Commission. SCE has also developed a modified version of the SO1 contract, referred to herein as a "reformed" SO1 (RSO1) contract. Finally, SCE entered

into extension (EXT) agreements with QFs whose contracts expired prior to a new standard QF contract being available. The Commission has directed that these projects may elect to extend the non-price terms and conditions of the expiring contract and continue service with the pricing set forth in the Commission's decision until a final contract is available.[41]

SCE asserts that it is authorized to recover the costs associated with PURPA contracts, subject to the Commission's review of SCE's administration of the contracts.

In Chapter 4 of Exhibit DRA-1, ORA presents its review of SCE's request and concludes that, based on its evaluation, ORA does not object to SCE's Application regarding how it exercised its contract management, compliance, and general administration of its PURPA PPAs and that of the associated costs it incurred during the Record Period.

Based on the testimony of SCE and the testimony of ORA, and our review of the record, we conclude that during the Record Period SCE administered its QF contracts prudently and in accordance with the Commission's established standards.

4.5. Renewables Portfolio Standard (RPS) Contract Administration and Costs

In Chapter X of Exhibit SCE-2, SCE reviews its RPS contract administration and associated costs. SCE states that it originates PPAs to implement California's RPS, which became effective January 1, 2003. The RPS legislation requires that certain load serving entities, including IOUs, increase their procurement from eligible renewable energy resources (ERRs), as defined in the legislation, by at

[41] Exhibit SCE-2 at 1.

least one percent of their annual sales per year, so that 20 percent of their retail sales are served by generation from ERRs in 2010.[42]

According to SCE, the Commission resolutions approving RPS contracts typically provide for the recovery of all payments made pursuant to those contracts, subject to the Commission's review of the reasonableness of SCE's contract administration. SCE's testimony states that during the Record Period, SCE purchased 4.837 billion kWh from 24 RPS projects, and recorded RPS project-related costs of $317.79 million. According to SCE, its testimony sets forth its recorded RPS contract-related expenses, describes its RPS contract development and administration activities during the Record Period, and demonstrates that such activities were reasonable.

In Chapter 5 of Exhibit DRA-1, ORA states that it reviewed the contract administration processes, contract activity, and training programs for SCE's non-QF contracts, including RPS contracts, during the Record Period, and has no objection to SCE's non-QF contract administration processes, contract activity, and training programs for the Record Period.

Based on the testimony of SCE and the testimony of ORA, and our review of the record, we conclude that SCE prudently and reasonably administered its RPS contracts during the Record Period.

4.6. CAISO-Related Costs

In Chapter XI of Exhibit SCE-2, SCE reviews its CAISO-Related Costs. SCE states that during the Record Period, it incurred approximately $373.8 million in CAISO-related costs. In its role as grid manager, the CAISO

[42] Exhibit SCE-2 at 45.

recovers its costs from SCE and other market participants through tariffs approved by the Federal Energy Regulatory Commission (FERC). SCE reminds the Commission that it discussed the key distinctions between the pre- and post-MRTU periods in its direct testimony in support of its April 2010 ERRA Review Application, A.10-04-002:

> SCE explained that under MRTU its financial settlements and reporting requirements associated with participating in the CAISO's market is significantly more complex than it was in the pre-MRTU period.[43]

According to SCE, although it has been billed by the CAISO for costs associated with many different CAISO charge types, these costs can be divided into three major groups: (1) grid management charges; (2) the net cost of market-related expenses and revenues (net market costs); and (3) FERC fees. In its testimony on the reasonableness of SCE's CAISO-related costs, SCE states:

> The majority of CAISO-related costs that SCE incurred during the Record Period were unavoidable. Those costs that SCE had discretion to control were managed consistent with Commission directives and the objective of minimizing costs to bundled customers. Accordingly, all CAISO-related costs that SCE incurred during the Record Period, as shown in Table XI-23 of Exhibit SCE-2, should be found reasonable.[44]

In Chapter 2 of its testimony on SCE's Application, ORA requests that the Commission defer $204 million of SCE's CAISO Net Market Costs of $310.6 million requested, dependent on SCE filing supplemental testimony to support its claim that these costs are "reasonable:"

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[43] Exhibit SCE-2 at 78.

[44] Exhibit SCE-2 at 82.

> Until SCE provides a showing that its 2010 CAISO Net Market Charges are reasonable, DRA finds evidence pointing otherwise and recommends that the Commission defer at least $204 million of SCE's requested $310.6 million in this ERRA Compliance proceeding. The deferral amount is based on allowing SCE to recover a portion of its 2010 forecasted ISO expenses, while deferring additional recovery unless and until SCE can provide supporting documentation of reasonableness. Here, SCE failed to make a showing for the Record Period, which would warrant full recovery of $310.6 million in CAISO Net Market Costs during the Record Period; expenses nearly three times what SCE forecasted.[45]

In its rebuttal, SCE states that ORA provides no support for its assertion that it sees "evidence" that almost two-thirds of SCE's CAISO-related costs are unreasonable. According to SCE, ORA's observation that some CAISO charges are referred to as "penalties" does not support its claim that almost two-thirds of SCE's CAISO-related costs appear unreasonable. SCE dismisses as "irrelevant" ORA's claims that the CAISO's charges are "excessive" and "unintended" as well as ORA's observation that SCE's CAISO-related costs are greater than originally forecast.[46]

In briefing, SCE offers three additional arguments in support of its request. First, SCE reasons that since it has demonstrated that it complied with least-cost dispatch, SCE's CAISO net market costs are per se reasonable:

> because SCE ran its own resources when it was economic to do so, by definition the energy SCE purchased in the CAISO market when it was not running those resources was economic.

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[45] Exhibit DRA-1 at 2-17.

[46] Exhibit SCE-6 at 12-15.

Second, SCE disputes ORA's claim that SCE has not "proven" that the costs are "reasonable," because SCE reviewed each CAISO cost category (including net energy costs) and provided relevant information to ORA in workpapers and data request responses:

> The supporting information that SCE provided for these expenses was the same as in prior ERRA Review applications, and the Commission has previously deemed that information sufficient and approved of the CAISO net market charges as reasonable. There is no need to deviate from that history here.

Third, SCE asserts that ORA's specific allegations regarding CAISO "penalties" and "problematic issues" regarding other participants' alleged bidding behavior being investigated by the FERC miss the point:

> As explained in SCE's rebuttal testimony, CAISO "penalties" are just a cost of doing business in the CAISO market, and SCE's customers were actually net "penalty" beneficiaries during the Record Period. More broadly, CAISO net market costs are a result of SCE's participation in the CAISO market. Regardless of whether DRA has confidence in the efficacy of the CAISO market, there is no rational basis to defer approval of SCE's CAISO charges when SCE has clearly demonstrated that it was complying with the relevant Commission rules and CAISO tariffs. As long as SCE complied with LCD, then the CAISO charges SCE incurred are compliant and reasonable. (*See* D.03-06-076 at 25.)

4.6.1. Discussion

As we have discussed earlier in this decision, our acceptance of SCE's showing on least-cost dispatch has more to do with the absence of any showing to the contrary than it does with the strength of SCE's own application and testimony, which we have found to be lacking in some respects. SCE acknowledges that our findings and conclusions regarding whether its CAISO

costs were reasonably incurred is directly linked to our findings and conclusions regarding whether SCE achieved least-cost dispatch.[47] Therefore, we are not swayed by SCE's reasoning that its showing on least-cost dispatch compels us to find its CAISO costs reasonable, nor by SCE's reasoning that because the Commission has accepted prior SCE showings, it should accept the showing for this Record Period as well. It is a well-established precedent that we are not bound by the actions of previous Commissions.

Despite our concerns with the record, however, we approve SCE's request for recovery of the CAISO costs that it incurred during the Record Period. Here we draw a distinction between those instances where ORA had access to sufficient information to complete its analysis and make a recommendation, and those instances where it did not. SCE identifies the information that it made available to ORA, and ORA does not refute SCE's statement that ORA did not make use of that information. We will not defer a decision on this aspect of SCE's application simply to allow ORA more time to complete an analysis when it had the opportunity to do so within this proceeding.

4.7. Operation of Ratemaking Accounts

In Chapter XII of Exhibit SCE-2, SCE reviews its operation of ratemaking accounts. SCE is requesting approval to recover $8.174 million

[47] "Of course, the Commission may examine SCE's purchasing strategies (e.g., assess if SCE should have relied more or less on CAISO markets), and does so as part of its review of SCE's LCD activities in this ERRA Review proceeding." Exhibit SCE 6-C, at 14.

(plus franchise fees and uncollectibles) associated with undercollections in two Commission-authorized regulatory accounts: (1) LCTA, and (2) PDDMA.[48]

4.7.1. SCE's Testimony

In its testimony on the operation of ratemaking accounts, SCE sets forth for Commission review the operation of various regulatory accounts (i.e., Balancing and Memorandum Accounts). SCE explains that the majority of these accounts, such as the ERRA Balancing Account, are audited by the Commission to ensure that recorded entries are accurate and consistent with Commission decisions. SCE identifies these accounts in Sections B-D of Chapter XII of its testimony.

SCE clarifies that it is not seeking, in this proceeding, to recover the amounts recorded in these accounts since the review is being performed on an after-the-fact basis (i.e., SCE has already been authorized to recover these expenses).

However, for the account set forth in Section E of Chapter XII, the PDDMA, SCE is requesting Commission approval to recover its recorded expenses.

Similarly, in Section F of Chapter XII, SCE provides an overview of Energy Settlements Memorandum Account (ESMA), requests authority to refund the balance in the Memorandum Account to customers, and also requests authority to recover the balance recorded in LCTA.

[48] Because the review of MRTU costs was removed from the scope of this proceeding, the associated revenue requirement was removed as well. *See* RT at 122.

4.7.2. LCTA

The undercollection in the LCTA ($4.053 million) reflects SCE's costs for outside counsel, expert witnesses, and other outside litigation costs. This recorded amount is related to the California energy crisis where SCE is pursuing refunds from suppliers who overcharged customers. SCE returns these refunds on an annual basis to customers through ESMA.

4.7.3. PDDMA

The undercollection in the PDDMA ($4.121 million) reflects SCE's labor, contract labor, and miscellaneous business development costs associated with identifying locations for potential new SCE generation, evaluating generation technologies, tracking the costs of regulatory and legislative generation-related initiatives, and other related costs in compliance with D.06-05-016.

4.7.4. ORA's Testimony

In Chapter 6 of Exhibit DRA-1, ORA presents a review and analysis of the accounts listed below and discussed in Chapter XII of Exhibit SCE-2; ORA describes its audit of these accounts in Chapter 8 of Exhibit DRA-1.

1. Base Revenue Requirement Balancing Account (BRRBA)
2. Nuclear Decommissioning Adjustment Mechanism (NDAM)
3. Public Purpose Programs Adjustment Mechanism (PPPAM)
4. CARE Balancing Account (CBA)
5. ESMA and LCTA
6. Medical Program Balancing Account (MPBA)
7. New System Generation Balancing Account (NSGBA)
8. Palo Verde Balancing Account (PVBA)

9. Pension Costs Balancing Account (PCBA) and Post Employment Benefits Other than Pensions Balancing Account (PBOP BA)
10. PDDMA
11. Results Sharing Memorandum Account (RSMA)

For each of the 11 accounts reviewed, ORA reviewed and verified beginning balances to be consistent with the ending balances in the 2009 ERRA report and also evaluated all monthly entries, incurred costs, and account balances documented in SCE's work papers for their reasonableness, correctness, and compliance with all the relevant Commission Decisions implemented through Advice Letters and Resolutions. With the exception of the PDDMA, ORA does not object to SCE's stated and recorded entries into these Balancing/Memorandum Accounts. Based on its review, ORA found that the costs recorded for the Balancing/Memorandum Accounts are consistent with Commission Decisions and Resolutions, are accurately recorded, and are supported by relevant workpapers. Thus, ORA conclude that SCE may recover from ratepayers the expenses associated with the ESMA and LCTA and the PDDMA, except for an amount that was incorrectly charged to the PDDMA.

Regarding the PDDMA, ORA noted that in response to ORA data request, SCE reported that it incorrectly charged the amount of $134,875 to the PDDMA and indicated that the overcharge will be reversed in 2011. ORA recommends disallowing the incorrect amount and further recommends that for the 2011 ERRA Compliance Filing, SCE highlight the reversal of the amount to the

appropriate account and show the adjustment in the PDDMA reflecting the incorrect charges. SCE notes that it has agreed to revise that charge in 2011.[49]

4.7.5. Discussion

Based on the testimony of SCE and ORA and our review regarding the amounts and dispositions of the ratemaking accounts, we conclude that—with the exception noted by ORA and SCE regarding the PDDMA--the operation of, and entries in, the ratemaking accounts presented in Chapter XII of Exhibit SCE-2 are appropriate, correctly stated, and in compliance with Commission decisions. SCE should be authorized to recover $4.053 million in the LCTA and $4.121 million in the PDDMA, adjusted as recommended by ORA. In its next ERRA compliance filing, SCE shall verify that it made the correcting adjustment to the PDDMA identified by ORA and described above.

4.8. Edison "SmartConnect" Program Cost Recovery

In Chapter XIII of Exhibit SCE-2, SCE reviews its operation of the "SmartConnect" Program and associated cost recovery. SCE states that its Advanced Metering Infrastructure (AMI) project, also known as Edison SmartConnect, will result in the installation of approximately 5 million "smart" meters in households and businesses with a demand of less than 200 kW. SCE is implementing the AMI project in three phases (Phase I, II, and III). Pursuant to SCE's approved preliminary statement, the Commission reviews the recorded operation of the SmartConnect Balancing Account (SmartConnectBA) in SCE's ERRA Review proceeding to determine that the entries recorded during the

[49] SCE Opening Brief at 36.

previous calendar year were stated correctly and incurred for SCE's AMI Phase III activities. The Commission has already reviewed SCE's Phase I and Phase II recorded costs, as well as some of its Phase III recorded costs in prior ERRA Review proceedings. SCE requests that the Commission find that the Phase III costs recorded in the SmartConnectBA during the Record Period were properly recorded and consistent with the categories adopted in D.08-09-039.[50]

ORA addressed SCE's testimony on its SmartConnect BA in Chapter 8 of Exhibit DRA-1. ORA's review of SCE's ratemaking accounts, including the SmartConnect BA, was intended to determine whether entries recorded in the accounts are appropriate, supported, correctly stated, and in compliance with the applicable Commission decisions. ORA found that the Phase III costs recorded in the SmartConnectBA during the Record Period were properly recorded and consistent with the categories adopted in D.08-09-039.[51]

Based on our review of SCE's testimony and ORA's testimony, we conclude that the Phase III costs recorded in the SmartConnectBA during the Record Period were properly recorded and consistent with the categories adopted in D.08-09-039 and are therefore recoverable.

4.9. Special Sales Contract Administration and Costs

In Chapter XIV of Exhibit SCE-2, SCE reviews its administration of special sales contracts, and associated costs. SCE states that in D.87-05-071, the Commission authorized the electric utilities to develop special electric rate contracts, the purpose of which was to create a mechanism that would allow the

[50] Exhibit SCE-2 at 134.

[51] Exhibit DRA-1 at 8-5.

utilities to continue to serve load to large customers who demonstrated their intent to bypass the utility's system by building self-generation projects. In subsequent decisions, the Commission set policy principles and established the guidelines the utilities would adhere to in developing and administering Self Generation Deferral Rate (SGDR) agreements. The Commission now reviews the reasonableness of SCE's SGDR agreements in the annual ERRA Review proceeding.[52]

In its testimony, SCE presents the results of SCE's administration of its last remaining SGDR agreement with Tosco (also known as ConocoPhillips). This SGDR agreement expired on July 31, 2010. SCE requests that the Commission find that its administration of the Tosco agreement during the seven-month period from January 1, 2010 through July 31, 2010 was reasonable.

In Chapter 5 of Exhibit DRA-1, ORA states that it reviewed the contract administration processes, contract activity, and training programs for SCE's non-QF contracts, including special sales contracts, during the Record Period, and has no objection to SCE's non-QF contract administration processes, contract activity, and training programs for the Record Period.

Based on the testimony of SCE and the testimony of ORA, and our review of the record, we conclude that SCE's administration of its special sales contracts during the record period was reasonable.

4.10. MRTUMA

This section of SCE's testimony, Chapter XV of Exhibit SCE-2, was removed pursuant to SCE's response to the August 12, 2011 ALJ Ruling

[52] Exhibit SCE-2 at 140.

consolidating Commission review of 2010 MRTU implementation costs in a separate proceeding.

4.11. MBA

In Chapter XVI of Exhibit SCE-2, SCE reviews the entries recorded in the MBA and requests that the Commission find them reasonable. SCE also requests a finding that $22.151 million of capital expenditures that SCE incurred to maintain the Mohave Generating Station (Mohave) and to preserve the possibility of continued or resumed operations beyond December 31, 2005 are reasonable and recoverable.

Mohave consists of two 790 MW coal-fired generating units, and is owned by the following companies: SCE – 56%, Salt River Project – 20%, Nevada Power Company-14%, Los Angeles Department of Water and Power – 10%. The plant site is located at the southern tip of Nevada in Laughlin, on a 2490-acre site adjacent to the Colorado River and the State of Arizona. The 1999 Mohave Consent Decree required installation of pollution-control equipment or the ceasing of operations using coal fuel in January 2006.

We are taking up matters related to the MBA in this proceeding after deferring our consideration of the matter in previous proceedings. In our scoping memo in A.07-04-001, SCE's ERRA compliance review proceeding for the 2006 record period, we stated that we would not review the entries recorded in the MBA until SCE first addressed the permanent status of the Mohave plant, as required by Ordering Paragraph 9 of D.06-05-016. We stated that after SCE addressed this issue we would then determine the appropriate proceeding for reviewing the reasonableness of SCE's entries and related capital expenditures in the MBA. SCE informed the Commission in its June 10, 2009 Mohave Monthly Status Report that "SCE and other Mohave co-owners have decided to

decommission the Mohave power plant and remove the generating facility from the site." In A.10-04-002, SCE's ERRA review proceeding for the 2009 record period, we adopted the joint recommendation of ORA and SCE to defer reasonableness review of SCE's MBA to SCE's 2010 review proceeding.

4.11.1. SCE's Testimony

As described above, having determined the permanent status of Mohave, SCE now requests the Commission to review its recorded costs in the MBA. Specifically, SCE requests that, for the period January 2006 through December 2010 (what SCE terms "the Mohave Record Period"), the Commission make the following findings:

1. the capital revenue requirement (i.e., depreciation, return on rate base, and taxes) in the amount of $91.294 million recorded in the MBA during the Mohave Record Period has been recorded correctly and is consistent with D.06-05-016 and D.09-03-025 ;
2. operating expenses (including worker protection expenses) in the amount of $56.362 million recorded in the MBA during the Mohave Record Period are reasonable; and
3. capital expenditures of $22.151 million that SCE incurred during the Mohave Record Period to maintain Mohave and preserve the possibility of continued or resumed operations beyond December 31, 2005 are reasonable and recoverable.

Finally, SCE proposes that expenditures at Mohave that continue after the Mohave Record Period that relate to the ongoing management, decommissioning and final dispositioning of the site be reviewed in future ERRA proceedings.

4.11.2. ORA's Recommendations

In Chapter 7 of Exhibit DRA-1, ORA recommends that the capital additions and the unamortized portion of the plant balance be written-off, effective January 1, 2007. ORA proposes to apply the annual over-collection from 2007 through 2010 in the MBA to reduce any remaining unamortized net plant balance.

First, regarding SCE's request that the capital revenue requirement of $91 million has been recorded correctly and is consistent with D.06-05-016 and D.09-03-025, ORA states that in its view, Mohave ceased commercial operations as a generation facility on December 31, 2005 and on June 19, 2006, SCE announced plans not to move forward with its efforts to return Mohave to service:

> although SCE may point to the preliminary statement associated with the MBA as authority to continue to collect a rate base return, and income tax expense, the MBA is subject to a required reasonableness review. DRA does not find it reasonable to earn a full return on a generating facility that is permanently non-operational. DRA recommends the plant be written off effective January 1, 2007.

Second, ORA does not oppose SCE's request that the $56 million operating expenses recorded in the MBA during the Mohave Record Period are reasonable.

Third, regarding SCE's request that the Commission find that the capital expenditures of $22.151 million that SCE incurred during the Mohave Record Period to maintain Mohave and preserve the possibility of continued or resumed operations beyond December 31, 2005 are reasonable and recoverable, ORA states that it,

> takes no issue with the cost of the capital expenditures, however, as the plant was no longer used and useful these capital additions should not be placed in rate base, nor accrue AFUDC after January 1, 2007.

Finally, regarding SCE's proposal that expenditures at Mohave that continue after the Mohave Record Period that relate to the ongoing management, decommissioning and final dispositioning of the site be reviewed in future ERRA proceedings, ORA states that:

> considering all costs have not been recorded to date, DRA proposes that the Commission order the decommissioning reserve and any associated entries be subject to full review for reasonableness in future ERRA proceedings, or other appropriate proceedings, after full decommissioning.

4.11.3. SCE's Response to ORA

In its rebuttal, SCE states that the Commission should reject ORA's arguments for the following reasons:

- The Commission specifically authorized SCE to include Mohave in rate base in SCE's 2006 and 2009 GRC proceedings, and conditioned SCE's recovery of its recorded costs in the MBA not on the threshold question of whether Mohave should have been included in rates but instead on whether SCE could justify its actions with respect to whatever "ultimately happened" with Mohave, including permanent shutdown;
- SCE has complied with the Commission's instructions and explained the reasonableness of its actions and associated costs during the Mohave Record Period and ORA does not challenge SCE's evidence in its Report;
- ORA's recommendation unfairly penalizes SCE for acting prudently in attempting to address the significant and challenging issues presented by Mohave during 2006-2010, and also harms SCE's customers;

- ORA's recommendation to disallow post-2007 AFUDC penalizes SCE by not allowing recovery of incurred financing costs associated with the Mohave-related CWIP capital expenditures; and
- ORA's assertion that SCE's decommissioning costs cannot be "validated" until full decommissioning has been completed is unsupported and contradicted by SCE's evidence in this proceeding.

4.11.4. Discussion

We conclude that based on our prior decisions regarding Mohave, and our recent decision in SCE's 2012 GRC, we should approve SCE's requests. We explain our reasoning below.

4.11.4.1. Prior Commission Decisions Addressing the Status of Mohave

We first addressed the status of Mohave in D.04-12-016. This decision authorized SCE to take several actions, including making "necessary and appropriate" expenditures on the Mohave for critical path investments required by the 1999 Consent Decree to allow Mohave to continue operations post year-end 2005 and to establish a Mohave Employee-Related Memorandum Account (MERMA) to track worker protection benefit expenses incurred before January 1, 2006, associated with the temporary shut-down of Mohave at the end of 2005.

We next addressed Mohave in May, 2006, in D.06-05-016, our decision on SCE's 2006 GRC application. Although Mohave was shut down at the end of 2005, at the time SCE filed this application in December, 2004, SCE did not know whether Mohave would operate in 2006. Therefore, SCE included three cases in its application, to bound the range of foreseeable outcomes: (1) continued operation of Mohave without a break in service, (2) temporary shutdown of

Mohave to allow installation of required pollution control equipment, and (3) permanent shutdown of Mohave after December 31, 2005.

In our discussion in that decision, we stated that of the three scenarios, temporary shutdown appeared to be a reasonable approach at that time, and that "due to the many uncertainties related to this issue, SCE's request to establish a two-way balancing account is reasonable and will be adopted."

SCE shall record its share of all Mohave O&M and capital related costs in the balancing account. Temporary rate recovery will be provided by the associated O&M expenses and capital-related costs adopted by this decision. Permanent recovery of costs, which may be higher or lower than the level adopted by this decision, will be based on the results of a future reasonableness review. By application, SCE shall make an affirmative showing of reasonableness on the need for, and extent of, all costs recorded in the balancing account.

As a general matter, the adoption of a two-way balancing account, with reasonableness review, should mitigate SCE's concern that setting the revenue requirements at any level other than the continued operation scenario could hamper the ongoing efforts by SCE and other relevant parties to resolve the issues necessary to allow continued operations at Mohave for the benefit of SCE's customers. No matter what revenue requirement level is set, SCE will ultimately only receive rate recovery for those costs that the Commission determines are reasonable. The only difference is that the balancing account may be over- or under-collected depending on what costs are included as part of this decision and what costs are ultimately found to be reasonable.

Rather than reducing the temporary shutdown scenario-related costs and imposing other conditions, as proposed by The Utility Reform Network, we are adopting the temporary shutdown costs projected by SCE and the two-way balancing account as proposed by SCE. Fine tuning the costs and procedures would be pointless unless we knew exactly when and under what conditions Mohave would return to operation. However, again, we are not prejudging the reasonableness of any of the costs. SCE must justify its actions in responding to whatever ultimately happens, whether it is continued operation, some form of temporary shutdown, or permanent shutdown. SCE must make a full reasonableness showing on its actions as well as on all costs booked to the two-way balancing account. Only costs found by the Commission to have been reasonably incurred will be permanently recovered in rates.

We found that depending on the circumstances, the return to operation of Mohave may provide significant benefits to SCE's customers, and that at that time, a temporary shutdown is the most appropriate ratemaking scenario for Mohave. We also found that SCE's forecast of O&M expenses and capital related costs associated with the temporary shutdown of Mohave are reasonable.

Based on these findings, we ordered SCE to establish a two-way balancing account to record the ongoing expenses and capital-related costs associated with Mohave, and that at an appropriate time, after the permanent status of Mohave is determined, SCE shall file an application seeking a final determination of the reasonableness of the costs recorded to the Mohave balancing account. Following D.06-05-016, SCE filed an Advice Letter to establish the MBA.

We next addressed Mohave in March 2009, in D.09-03-025, our decision on SCE's 2009 GRC application. By the time of our decision, SCE had provided the Commission with two significant updates regarding the status of Mohave. First,

in June 2006, "SCE concluded a comprehensive reassessment of the ongoing efforts to return Mohave to operation, and reluctantly determined that it could not continue to pursue resumed operation of the plant as an SCE asset." Second, in 2007 and 2008, SCE reported several times on essentially parallel efforts underway to either: (1) sell or restart the plant, or (2) decommission the facility. It was not until June 2009 that SCE and the other co-owners decided to cease efforts to sell Mohave, and to proceed immediately to decommission the plan that remove the generating station equipment from the site.

In D.09-03-025 we rejected SCE's request for a 30 percent contingency reserve in its decommissioning-related revenue requirement, stating "there is no dispute that Mohave expenditures are subject to a two-way balancing account approved in SCE's 2006 GRC," and we rejected SCE's contingency request because "in this instance, SCE has an established balancing account to ensure that SCE recovers its reasonable and necessary costs related to the Mohave decommissioning." We found that SCE's Mohave O&M costs are subject to balancing account treatment, and that Mohave expenditures are subject to a two-way balancing account as approved in SCE's 2006 GRC. We concluded that the Mohave balancing account provides SCE with sufficient protection against unknown costs, making it unnecessary and unreasonable to include a contingency in the adopted Mohave TY 2009 O&M cost forecast. We ordered that SCE shall continue the two-way balancing account to record the ongoing costs associated with Mohave.

Finally, we addressed Mohave in November, 2012, in D.12-11-051, our decision on SCE's 2012 GRC application. We ordered SCE to continue the two-way balancing account to record the ongoing costs associated with Mohave, and that SCE shall not earn a rate of return on undepreciated plant and

decommissioning costs for Mohave. In reaching this result, we accepted at face value SCE's request to amortize the remaining capital investment at Mohave and the decommissioning costs over the current remaining life of 6.5 years, including earning rate of return; in other words, we did not challenge the existence of the capital investment in and of itself. Finally, we concluded that SCE's forecast Test Year 2012 O&M and forecast 2011-2012 capital expenditures for Mohave were reasonable, and that continuation of the MBA is reasonable so that costs will be subject to a reasonableness review, to provide ratepayers protection against unknown costs, and that SCE should be able to recover its net investment in Mohave plant and decommissioning costs over six years of remaining life, but that it is not reasonable to earn a rate of return.

4.11.5. Resolution of Mohave Issues

As a preliminary matter, we note that an earlier section of this decision addressed the second motion by SCE to strike portions of ORA's testimony, including its testimony on the MBA. Given our statements in D.06-05-016 when we established the MBA, which we quoted extensively above, we find SCE's efforts now to limit the extent of our review to be somewhat discomfiting. We made it abundantly clear in that decision that we were not prejudging the reasonableness of any of the costs, and in subsequent decisions, we assured SCE that the balancing account structure we had established would also ensure that SCE recovered its reasonable and necessary costs related to the Mohave decommissioning. Finally, as ORA points out, we deferred our reasonableness review until SCE first addressed the permanent status of the Mohave plant, and this proceeding is the agreed-upon time for us to take up that task. SCE's efforts to strike from the record the first instance of intervenor testimony on the

question would improperly limit the record available to us for our decision, as the ALJ found in denying SCE's motion.

Turning now to the substance of SCE's application and SCE's requested findings regarding the period January 2006 through December 2010, we address each SCE request below.

In our most recent GRC decision regarding Mohave, addressing the 2012 test year, we allowed SCE to recover its remaining net investment and decommissioning costs for Mohave but stated that shareholders should not receive a rate of return on the undepreciated, non-operational plant or decommissioning expenses, on a going-forward basis. The most logical inference to draw from our treatment of this issue is that, for the 2006-2010 record period under review in the instant proceeding, whether we did so only implicitly or not, in our prior decisions on SCE's 2006 and 2009 GRCs, we did allow shareholders to receive a rate of return on the undepreciated, non-operational plant, as well as the decommissioning expenses. Based on the full record we have reviewed above, we conclude that ORA's proposal in the proceeding before us would have us treat Mohave costs for the period 2006-2010 in a manner that is inconsistent with our statements in prior decisions. Given our actions in D.12-11-051, which acknowledge the ratemaking structure that we established in prior decision, and then change that structure to remove the shareholder return, it would be illogical to extend this reasoning backwards to reach the same result for the 2006-2010 record period. Most fundamentally, we cannot agree with ORA that our determinations in D.06-05-016 and D.09-03-025 somehow leave an opening for the outcome that ORA proposes here.

4.11.5.1. Capital Revenue Requirement

Regarding SCE's first request that the capital revenue requirement in the amount of $91.294 million recorded in the MBA during the Mohave Record Period has been recorded correctly and is consistent with D.06-05-016 and D.09-03-025, we note that ORA did not dispute the accuracy of the amounts, only SCE's right to recovery. Based on our own review of SCE's request, we find that the capital revenue requirement in the amount of $91.294 million recorded in the MBA during the Mohave Record Period has been recorded correctly and is consistent with D.06-05-016 and D.09-03-025.

4.11.5.2. Operating Expenses

SCE's second request is that the operating expenses (including worker protection expenses) in the amount of $56.362 million recorded in the MBA during the Mohave Record Period be found reasonable. ORA does not oppose this request. Based on the testimony of SCE and ORA, we find SCE's request to be reasonable.

4.11.5.3. Capital Expenditures

SCE's third request is that the capital expenditures of $22.151 million that SCE incurred during the Mohave Record Period to maintain Mohave and preserve the possibility of continued or resumed operations beyond December 31, 2005 are reasonable and recoverable. ORA takes no issue with the cost of the capital expenditures, but argues that because the plant was no longer used and useful these capital additions should not be placed in rate base, nor accrue AFUDC after January 1, 2007. For the reasons discussed above, we disagree with ORA's reasoning. We find that the capital expenditures of $22.151 million that SCE incurred during the Mohave Record Period to maintain

Mohave and preserve the possibility of continued or resumed operations beyond December 31, 2005 are reasonable and recoverable.

4.11.5.4. Post-2010 Expenditures at Mohave

Finally, SCE proposes that expenditures at Mohave that continue after the Mohave Record Period that relate to the ongoing management, decommissioning and final dispositioning of the site be reviewed in future ERRA proceedings. ORA proposes that the Commission order the decommissioning reserve and any associated entries be subject to full review for reasonableness in future ERRA proceedings, or other appropriate proceedings, after full decommissioning. It is not clear whether the two proposals are materially different, but we adopt SCE's proposal that expenditures at Mohave that continue after the Mohave Record Period that relate to the ongoing management, decommissioning and final dispositioning of the site be reviewed in future ERRA proceedings.

5. Ruling Amending Scope, Setting Aside Submission and Requesting Additional Information

On April 16, 2013, the assigned ALJ issued a Ruling Setting Aside Submission and Requesting Additional Information. In that ruling, the ALJ noted that in this proceeding, parties devoted considerable energy in discovery, filed testimony, hearings, and briefs to the question of whether SCE achieved LCD of its energy resources. As noted above, LCD is governed by SOC 4, which directs that the utilities shall prudently administer all contracts and generation resources and dispatch the energy in a least-cost manner. In D.02-12-074, the Commission addressed the issue of compliance with SOC 4 and set each utility's maximum disallowance risk equal to "two times their annual administrative expenses for all procurement functions, including those related to CDWR

contract administration, utility-retained generation, renewables, QFs, demand-side resources, and any other procurement resources." The Commission determined that the exact dollar amount for the maximum potential disallowance will be based on each utility's procurement-related administrative expenses, as determined in each utility's GRC. However, that value for the 2010 record period was not part of the record in this proceeding; therefore, submission of the proceeding was set aside and the record reopened for the purpose of receiving from SCE the exact dollar amount that is equal to two times its 2010 administrative expenses for all procurement functions, including those related to CDWR contract administration, URG, renewables, QFs, demand-side resources, and any other procurement resources.

SCE provided this information on May 15, 2013. SCE's response to the ALJ's request for "the exact dollar amount that is equal to two times SCE's administrative expenses for all procurement functions in 2010" consisted of "supplemental testimony" organized into two sections, Section I and Section II. Section I provided the information requested by the ALJ, while Section II consisted of material supporting SCE's argument that ORA's least-cost dispatch recommendation should be denied by the Commission.

On June 14, 2013, ORA filed a "Motion to Strike Additional Evidence Submitted by Southern California Edison Company in its Response to ALJ Ruling Amending Scope, Setting Aside Submission and Requesting Additional Information." ORA argues that the Commission should strike Section II of the Supplemental Testimony and its attachments (Exhibits B–D) from the record because these documents are irrelevant and immaterial to the present proceeding; because submission of this information is untimely and unresponsive to the ALJ's ruling; because further litigation of the issue of

least-costs dispatch at this stage of the proceeding is unnecessary; and because no opportunity was provided to ORA to review and rebut the late-submitted evidence.

SCE responded to ORA's motion on July 1, 2013 and filed a corrected response on July 2, 2013. SCE argues that information about SCE's ERRA compliance showing for the 2011 record period (A.12-04-001), and ORA's testimony regarding that showing, are somehow relevant to our review of the record regarding the 2010 record period.

ORA, with the permission of the assigned ALJ, replied to SCE on July 11, 2013, clarifying and expanding statements and arguments in its original motion.

We agree with each of ORA's arguments. Most fundamentally, the Ruling had a sole limited purpose: to receive from SCE the exact dollar amount that is equal to two times its 2010 administrative expenses for all procurement functions. None of the material included in Section II of SCE's Supplemental Testimony is responsive to this request. For this reason, ORA's motion to strike additional evidence submitted by SCE is granted. Only Section I of SCE's response is marked as Exhibit SCE-11 and is received into evidence.

6. Comments on Proposed Decision

The proposed decision (PD) of the ALJ in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on November 4, 2013, by SCE and ORA. Reply comments were filed on November 12, 2013, by SCE and ORA.

In its opening comments, SCE proposes several changes to the PD. First, SCE recommends changing the PD so that it reflects SCE's perspective on its obligations regarding least-cost dispatch. As ORA correctly observes in its reply

comments, SCE does not demonstrate any "factual, legal or technical errors" in the PD on this matter, nor does it make specific references to the record or applicable law, as required by Rule 14.3(c). Thus, SCE's comments should be accorded no weight. Similarly, SCE next recommends that the PD be changed to more thoroughly reject ORA's recommended LCD disallowance, but again, SCE provides none of the material required by Rule 14.3(c). We again accord no weight to SCE's comments. Third, SCE recommends modification of the PD's discussion of internal auditing, but relies on material from the 2012 ERRA compliance record year. This does not remove SCE's obligation to comply with our decision on its 2010 record year. Finally, SCE recommends that the PD's discussion of SCE's SPVP should be clarified, stating that, "regarding potential disallowances, the PD should be clarified to state that no disallowances can be imposed for the 2009 Record Year (where the Commission has already issued a final decision deeming SCE's UOG operations reasonable) and for the 2011 Record Year (where SCE and ORA have stipulated that SCE's UOG operations were reasonable)." We decline to make this change. SCE should include a discussion of the 2009 Record Year in the testimony ordered in this decision, so that the Commission is afforded a complete analysis of the program. Regarding 2011, the fact that SCE and ORA have stipulated that SCE's UOG operations were reasonable does not absolve the Commission itself from making the same determination.

ORA identifies what it describes as legal and technical errors in the PD and recommends modifications to correct those items.

First, ORA argues that the PD contains a legal error because its "finding" that SCE failed to meet its burden of proof with regard to the least-cost dispatch of resources is inconsistent with Conclusion of Law 3 and its supporting

discussion. Conclusion of Law 3 states, "We should accept SCE's least-cost dispatch showing for the 2010 Record Period as adequate but clarify our expectations for future showings." We disagree with ORA's argument, in that it labels as "findings" certain portions of our discussion of SCE's showing that are not, in fact, included in the "Findings of Fact" section of the PD. Therefore, we disagree that the PD contains legal error and we do not make the changes recommended by ORA.

Second, ORA recommends that SCE should be ordered to distribute its proposed criteria and methodology at least 10 business days before the workshop, and that ORA and other parties should have an opportunity to comment on SCE's post-workshop report. We have changed the proposed decision to order SCE to distribute its proposed criteria and methodology at least 10 business days before the workshop, and to provide ORA and other interested parties with the opportunity to comment on PG&E's post-workshop report.

7. Assignment of Proceeding

Michel Peter Florio is the assigned Commissioner and Stephen C. Roscow is the assigned ALJ in this proceeding.

Findings of Fact

1. SCE's application was accompanied by exhibits and testimony in support of the reasonableness of its URG fuel procurement, administration of PPAs, and least-cost dispatch activities for the 2010 Record Period.

2. SCE's showing regarding least-cost dispatch is primarily based on its responses to questions in the Master Data Request providing extensive information about the "highest, lowest and average energy load days" during the Record Period.

3. SCE assembled its showing on least-cost dispatch based on prior years' applications but the showing assembled by SCE was not fully consistent with our direction regarding the showing necessary to demonstrate successful least-cost dispatch.

4. ORA did not identify any imprudence in SCE's operational management, excluding least-cost dispatch, of its hydroelectric and coal-fueled URG facilities.

5. ORA did not identify any imprudence in SCE's operational management, excluding least-cost dispatch, of its SCE Peaker URG facilities.

6. SCE has provided testimony to demonstrate that its Catalina diesel fuel and transportation costs facilities were managed in a prudent manner during the Record Period.

7. ORA did not identify any imprudence in SCE's operational management, excluding least-cost dispatch, of its nuclear generation facilities.

8. ORA recommends that SCE improve its initial showing regarding its internal auditing of URG management, outage avoidance, outage mitigation, and associated fuel costs in future ERRA compliance applications.

9. ORA's audit of the entries SCE recorded in its ERRA for the Record Period disclosed no items of a material nature requiring adjustments.

10. ORA has no objection to SCE's management and administration of its non-QF contracts, its PURPA contracts, and its RPS contracts.

11. ORA did not adequately support its recommendation that the Commission defer SCE's recovery of a portion of its CAISO-related costs.

12. With respect to the operation of SCE's ratemaking accounts, ORA reviewed all of the accounts and, in testimony, noted exceptions only for the PDDMA.

13. The capital revenue requirement (i.e., depreciation, return on rate base, and taxes) in the amount of $91.294 million recorded in the MBA during the Mohave Record Period has been recorded correctly and is consistent with D.06-05-016 and D.09-03-025.

14. The operating expenses (including worker protection expenses) in the amount of $56.362 million recorded in the MBA during the Mohave Record Period are reasonable.

15. The capital expenditures of $22.151 million that SCE incurred during the Mohave Record Period to maintain Mohave and preserve the possibility of continued or resumed operations beyond December 31, 2005 are reasonable and recoverable.

16. Information presented in SCE's ERRA showing and ORA's testimony that would place SCE at a competitive disadvantage if disclosed was placed under seal.

Conclusions of Law

1. SCE's least-cost dispatch showing is consistent with its showing for previous Record Periods.

2. The Commission made no disallowances on previous SCE least-cost dispatch showings, but SCE's own testimony in this Record Period demonstrates that its showing is not fully consistent with Commission directions regarding the showing necessary to demonstrate successful least-cost dispatch.

3. We should accept SCE's least-cost dispatch showing for the 2010 Record Period as adequate but clarify our expectations for future showings.

4. A compliance showing by a utility should demonstrate that the utility complied with Commission orders and standards.

5. A complete showing of least-cost dispatch by SCE should include precise numerical calculations that demonstrate that SCE achieved least-cost dispatch during the Record Period, or quantify the amount of overspending by SCE.

6. SCE should quantify the degree to which it achieved, or did not achieve, least-cost dispatch during the 2014 Record Period and include that showing in its ERRA compliance application in 2015.

7. SCE's hydroelectric facilities were operated reasonably during the Record Period.

8. Four Corners Units 4 and 5 were operated reasonably during the Record Period.

9. SCE's Peakers were operated reasonably during the Record Period.

10. SCE's availability incentive bonus payment for Mountainview is accurately stated and is reasonable.

11. Recovery of Mountainview emissions credit costs should not be deferred.

12. SCE's management of its Catalina diesel fuel and transportation costs during the Record Period was reasonable.

13. SCE has not supported its request that the Commission finds that SCE operated its SPV URG resources reasonably during the Record Period and should include testimony in its next ERRA compliance filing that fully demonstrates whether, and how, SCE has effectively managed its SPVP generating units in order to achieve appropriate system performance.

14. SCE's nuclear generation facilities were operated, and any outages were mitigated, in a reasonable and prudent manner during the Record Period.

15. SCE should improve its showing on its internal auditing procedures in future ERRA applications.

16. SCE should ensure that ORA is part of the "other stakeholders" group that is consulted during the development and implementation of future audit plans, and SCE should formally respond to any recommendations ORA makes so that ORA understands how its expectations were addressed in the final audit plan.

17. SCE prudently administered its non-QF contracts during the Record Period. SCE's costs associated with the administration of its non-QF contracts during the Record Period were reasonable.

18. SCE administered its QF contracts prudently and in accordance with the Commission's established standards during the Record Period.

19. SCE prudently and reasonably administered its RPS contracts during the Record Period.

20. SCE's request for recovery of the CAISO costs that it incurred during the Record Period should be approved.

21. The operation of and entries in the ERRA, BRRBA, NDAM, PPPAM, CBA, MPBA, NSGBA, PVBA, PCBA, PBOP BA,RSMA, and NSGBA, as presented by SCE in Exhibit SCE-2 are appropriate, correctly stated, and in compliance with Commission decisions.

22. The amounts recorded in the ESMA and the LCTA are appropriate, correctly stated, consistent with Commission orders, and reasonably incurred.

23. In its next ERRA compliance application SCE should verify that it has made the correcting adjustment to the PDDMA recommended by ORA.

24. The Phase III costs recorded in the SmartConnect Balancing Account were properly recorded, consistent with the categories adopted in D.08-09-039, and are therefore recoverable.

25. SCE's administration of its special sales contracts during the Record Period was reasonable.

26. The expenditures at Mohave that continue after the 2006-2010 Mohave Record Period that relate to the ongoing management, decommissioning, and final dispositioning of the site should be reviewed in future ERRA proceedings.

27. Section I of the supplemental testimony submitted by SCE on May 15, 2013 should be admitted into evidence. ORA's motion to strike Section II of the supplemental testimony should be granted.

O R D E R

IT IS ORDERED that:

1. Within 90 days of this decision the Commission's Energy Division shall facilitate a workshop where Southern California Edison Company (SCE) and other interested parties shall develop proposed criteria that should be used to determine what constitutes least-cost dispatch compliance, and the resulting methodology SCE should follow to assemble a showing to meet its burden to prove such compliance. SCE shall distribute its proposed criteria to all other parties at least 10 business days prior to the workshop.

2. Within 30 days following the workshop, Southern California Edison Company shall prepare a report summarizing the outcome, and file and serve the report in this docket for our consideration. Other parties may file and serve comments on the workshop report within 30 days of the date of its service.

3. Southern California Edison Company shall quantify the degree to which it achieved, or did not achieve, least-cost dispatch during the 2014 Record Period and include that showing in its Energy Resource Recovery Account compliance application in 2015.

4. Southern California Edison Company (SCE) shall include testimony in its next Energy Resource Recovery Account (ERRA) compliance application that fully demonstrates whether, and how, SCE has effectively managed its Solar Photovoltaic Program (SPVP) generating units in order to achieve appropriate system performance. SCE's testimony should cover all commercial operations since the inception of the SPVP program through the record period covered by SCE's next ERRA compliance filing.

5. Southern California Edison Company shall ensure that the Office of Ratepayer Advocates (ORA) is part of the "other stakeholders" group that is consulted during the development and implementation of future audit plans, and shall formally respond to any recommendations ORA makes so that ORA understands how its expectations were addressed in the final audit plan.

6. Southern California Edison Company is authorized to recover in rates the $4.053 million balance in the Litigation Costs Tracking Account.

7. Southern California Edison Company is authorized to recover in rates the $4.121 million in the Project Development Division Memorandum Account, adjusted as recommended by the Office of Ratepayer Advocates.

8. In its next Energy Resource Recovery Account compliance filing, Southern California Edison Company shall verify that it made the correcting adjustment to the Project Development Division Memorandum Account, as recommended by the Office of Ratepayer Advocates.

9. The expenditures at Mohave Generating Station (Mohave) that continue after the 2006-2010 Mohave record period that relate to the ongoing management, decommissioning, and final dispositioning of the site shall be reviewed in future Energy Resource Recovery Account proceedings.

10. Southern California Edison Company's Master Data Request responses as well as responses to certain additional Office of Ratepayer Advocates data requests, identified as Exhibit SCE-10-C, is received into evidence in this proceeding.

11. Section I of the May 15, 2013 "Response of Southern California Edison Company to Administrative Law Judge's Ruling Amending Scope, Setting Aside Submission and Requesting Additional Information," identified as Exhibit SCE-11, is received into evidence in this proceeding. Office of Ratepayer Advocates' motion to strike Section II of Southern California Edison Company's response, as well as the associated attachments, is granted.

12. All information placed under seal in this proceeding shall remain sealed for a period of three years from the effective date of this order. During that period, the confidential Exhibits shall not be made accessible or disclosed to anyone other than the Commission staff except on the further order or ruling of the Commission, the assigned Commissioner, the assigned Administrative Law Judge (ALJ), or the ALJ then designated as Law and Motion Judge. If Southern California Edison Company believes that further protection of the information kept under seal is needed, it may file a motion stating the justification for further withholding of the information from public inspection, or for such other relief as the Commission's rules may then provide. This motion shall be filed no later than one month before the expiration date of the three year period adopted in this order.

13. Application 11-04-001 shall remain open.

This order is effective today.

Dated _____, at San Francisco, California.

APPENDIX

List of Appearances

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Last Updated on 15-OCT-2013 by: JVG
A1104001 LIST

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